HOUSE OF REPRESENTATIVES—*Wednesday, June 1, 1988*

The House met at 1 p.m.

The Reverend Dr. Ronald F. Christian, assistant to the bishop, Washington, DC, Metropolitan Synod, Evangelical Lutheran Church in America, offered the following prayer:

God of all nations, and Father of all peoples:

Look with favor this day on the efforts of Your servants everywhere who seek peace, encourage justice, and show mercy.

Bless, we pray, to the fruitful benefit of all humankind, the conversations and decisions of President Reagan and General Secretary Mikhail Gorbachev. As we, each one, are able and have occasion, lead us in the paths of reconciliation and peace with our neighbor, so that—

Plowshares will replace spears and pruning hooks will take the place of swords; and

The lion and lamb will indeed find no fear of each other.

Then everyone will see and know that You are God, and our children will call us blessed.

Hear our petition and grant us Your grace in our living. 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.

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 joint resolution of the House of the following title:

H.J. Res. 469. Joint resolution to designate June 1988 as "National Recycling Month."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4524. An act to increase the dollar amount of defense authorizations for fiscal year 1988 that are subject to transfer for new purposes pursuant to law, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4524) "An act to increase the dollar amount of defense authorizations for fiscal year 1988 that are subject to transfer for new purposes pursuant to law, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NUNN, Mr. STENNIS, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, Mr. GLENN, Mr. GORE, Mr. WIRTH, Mr. SHELBY, Mr. WARNER, Mr. THURMOND, Mr. HUMPHREY, Mr. COHEN, Mr. QUAYLE, Mr. WILSON, Mr. GRAMM, Mr. SYMMS, and Mr. MCCAIN to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 2969) "An act to amend chapter 11 of title 11 of the United States Code to improve the treatment of claims for certain retiree benefits of former employees."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1652. An act to authorize the establishment by the Secretary of Agriculture of a plant stress and water conservation research laboratory and program at Lubbock, TX;

S. 2156. An act to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget; and

S. 2372. An act to authorize appropriations for Federal Civil Defense programs for fiscal year 1989.

PERMISSION FOR SUBCOMMITTEE ON CRIMINAL JUSTICE OF COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE DURING BALANCE OF THIS WEEK

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Criminal Justice of the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule this week.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

HAVE REAGAN'S VIEWS TOWARD THE SOVIETS CHANGED?

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, today ends the fourth summit meeting between Ronald Reagan and Soviet Leader Gorbachev—the first trip by a U.S. President to Moscow since 1973.

Many people are asking, have President Reagan's views toward the Soviet Union changed?

After all, isn't it President Reagan who characterized the Soviet Union as an "Evil Empire?" Put unrelenting pressure on the Soviets on human rights? Lent support for freedom fighters opposed to Communist governments in the Third World? And presided over a massive strengthening of U.S. defense capabilities?

The truth is that President Reagan doesn't have to change his views toward the Soviets. Instead, the Reagan administration's consistent pursuit of democracy, human rights, and peace through strength have led to changes in Soviet behavior.

It is, of course, undeniable that the Soviet Union was itself changing during the years of the Reagan Presidency. Soviet Leader Gorbachev, responding to years of inertia, called for glasnost (openness) and perestroika (restructuring). These moves were necessitated by worsening social conditions and economic decline in the world's major Communist country.

Despite these changes, however, the Soviet Union has a long way to go. Soviet human rights policies do not conform to the Helsinki agreements or to basic standards of decency. The Soviets continue to support expansionist Marxist regimes throughout the world. And the Soviets continue to maintain a huge, offensively-oriented military establishment.

President Reagan understands this. When he went to Moscow he went to communicate the American values of democracy and human rights as well as to explain other American interests. The President succeeded admirably in bringing his message to the Soviet people and by all accounts was very well received.

On the other hand, the President knew that he was a guest in another's home. Mr. Reagan took a conciliatory tone at times, but this did not detract from his forceful advocacy of American values.

Make no mistake. If the President's views toward the Soviets have changed, it is in large part due to the success of his policies in countering the Soviet menace to democracy, human rights and world peace.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

IF NEW TREATY IS BROKEN, IT WILL NOT BE FIXED BY THE NEIGHBORHOOD CRIME WATCH

(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, it looks and it sounds great; a treaty to ban a whole category of nuclear weapons was signed today with President Reagan and Mr. Gorbachev, but history warrants some caution for this House.

The Soviets did not honor the ABM Treaty, nor did they honor SALT I or SALT II, nor did they respect the Helsinki accords.

The facts are that in the last near generation we have given away the Panama Canal and today we give Mr. Gorbachev the upper hand in Europe. So before we light up cigars today at the celebration, everybody should be reminded of one thing. If this treaty is broken, we will not fix it with the neighborhood crime watch. It will cost billions and billions of our taxpayers' dollars to match the conventional force advantage and weaponry of the Soviet Union.

APPOINTMENT TO BOARD OF TRUSTEES OF INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

The SPEAKER. Pursuant to the provisions of section 1505 of Public Law 99-498, the Chair appoints to the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development the following Members on the part of the House:

Mr. KILDEE of Michigan; and

Mr. YOUNG of Alaska.

BEST WISHES TO SALVADORAN PRESIDENT DUARTE FOR A SPEEDY AND FULL RECOVERY

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, the many friends and admirers of Salvadoran President Jose Napoleon Duarte will want to join me, I know, in sending our heartfelt wishes for his speedy and full recovery.

President Duarte has faced incredible personal and professional challenges in the past and has met them with faith, strength and grace, which has won for him the respect of his adversaries as well as his friends. I know President Duarte will meet this new challenge to his personal health with the same courage he has shown so often in the past.

The revolution of democracy that President Duarte has crafted for El Salvador in the face of armed Marxist insurgents is an inspiration for his neighboring countries. If democracy succeeds in El Salvador and in Central America, it will be in large part a result of the example of Jose Napoleon Duarte. History will remember him as the father of democracy in his country.

I am sending a message to President Duarte conveying our warmest regards and best wishes to him, and I urge my colleagues to join me in signing in this letter.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4526

Mr. RHODES. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 4526.

The SPEAKER pro tempore (Mr. DELLUMS). Is there objection to the request of the gentleman from Arizona?

There was no objection.

A CITIZENSHIP LESSON

(Mr. CAMPBELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMPBELL. Mr. Speaker, President Reagan's unfortunate remarks about American Indians yesterday greatly disturb me, both as an American Indian and as an American citizen. For it appears the President does not know that Indians are also citizens. While they did not receive the right to vote until 1924, the people who thrived on this land for 20,000 years have since shown they are among our country's most loyal citizens and have made great contributions to our Nation.

In fact, the great law of the Iroquois Confederacy served as a model for our Constitution. Many Indians made the ultimate sacrifice and are buried next to fallen comrades of all ancestries at Arlington Cemetery. A soldier of Indian descent was among those brave warriors who raised the flag at Iwo Jima. The only code not broken by the enemy in World War II was developed by Navajo "code talkers." And, the American Legion Post on the reservation of my ancestors has the highest enrollment of any legion post in the State of Montana.

Mr. Speaker, I want to emphasize that I heartily support the President's arms control efforts in the Soviet Union. My concern is only with his remarks about American Indians, and today I wrote him a letter, accepting his offer to meet at any time to discuss Indian problems and concerns. I am volunteering to set up a meeting with Indian people who can tell the President about what it's like to live on a reservation and how the Indians came to live on those reservations.

The President needs to learn that social ills—like unemployment, suicide, and alcoholism—are many times greater on the reservation than in society at large. We need to inform the President that Indians did not chose the hot, sandy land to which they were removed and although a few tribes were fortunate enough to discover and recover energy resources on their reservations, that doesn't mean that a lot of Indians are wealthy oil barons. The fact is, life in Indian country is too often marred by poverty and desperation.

Also, it should be understood that while Indian people are naturally very interested in preserving their traditions, they do not seek to live a life Mr. Reagan characterizes as primitive. The needs in Indian country are similar to those of many peoples living under impoverished conditions.

I hope the President will accept my invitation to meet with Indians soon so he can discard his misconceptions about Indian people and avoid making misstatements in the future.

A TRIBUTE TO FATHER NICK TRIVELAS OF CHARLESTON, SC

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, what a wonderful thing it is to be the spiritual heart of a thriving community. Father Nick Trivelas has held this enviable position in the Greek community in Charleston, SC, for the past 40 years.

As a parish priest of the Greek Orthodox Church of the Holy Trinity in Charleston since 1948, Father Nick is now baptizing and marrying a third generation of Greek Americans in our city. His leadership derives from two fundamental sources, hard work and an overwhelming love for his parish. Beginning with his efforts toward erecting the Greek Orthodox Church of the Holy Trinity, Father Nick has applied his talents to projects that will preserve the proud traditions that distinguish Greek Americans in this country.

Certainly two of the most important elements of any culture are its music and literature. Father Nick has fostered these by teaching the Greek language in the church's afternoon school. And he is nationally recognized as a choral director.

Father Nick's career has produced the abundant fruits that are the harvest of love and boundless energy. We in Charleston are extremely fortunate to have had this remarkable man as a part of our community for almost half a century. We look forward to his con-

tinuing good works for a long time to come.

LET US SUPPORT EFFORTS TO PREVENT DRUNK DRIVING

(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, 2 weeks ago, 27 people—mostly teenagers—were killed in what will be remembered as one of the worst bus accidents in U.S. history. This horrible tragedy was the result of a head-on collision when the driver of a pickup truck was heading in the wrong direction on the interstate and crashed into the schoolbus filled with teenagers returning from a church outing. But probably the most horrifying aspect of this tragedy is that the driver of the truck was heavily under the influence of alcohol. Kentucky State police said the driver's blood-alcohol level was tested at almost 2½ times the legal threshold.

Mr. Speaker, this accident could have been prevented. Now, more than ever, this country must recognize that drunk driving is a national crisis that must be seriously dealt with. Our laws must be tougher, and we must do more to keep drunk drivers off the road. Today I am introducing legislation that would do just that—this bill will encourage States to promote stricter, more effective laws to help eradicate drunk driving. Federal seed money will be provided to States to help establish self-sustaining drunk driving prevention programs if a State agrees to put such a program in place, with fines or surcharges collected from persons convicted of drunk driving returned to communities for enforcement. States would also have to adopt laws that would provide for the prompt suspension or revocation of the license of an individual found to be driving under the influence of alcohol.

Mr. Speaker, a drunk driving fatality occurs every 22 minutes in this country. Let's finally take some steps as a nation to combat this problem, and let's communicate to the family members of the victims of this horrible statistic that we take this crisis very seriously.

AFTER THE SUMMIT, TWO MAJOR ISSUES

(Mr. GREGG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREGG. Mr. Speaker, the discussions which are going on today between General Secretary Gorbachev and President Reagan and which have been going on over this weekend represent significant progress in the relationship between the two nations. These discussions which have addressed the issues over which our two nations differ are significant. These differences are also very important and we should not foget them; but it is good to see that we have made substantial progress on the issue of arms control, especially on the INF Treaty, which is a major step forward in trying to limit the expansion of nuclear weapons on this planet.

It is hopeful that these two leaders can now lay the goundwork during the day to come on the major issue that lays before our two nations, the issue of how to control the ICBM's and to get on with a START agreement, especially in the area of verification.

EMPLOYEE POLYGRAPH PROTECTION ACT

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, today this House will consider the conference agreement on the so-called Employee Polygraph Protection Act.

I am opposed to the conference report, just as I opposed the bill passed by the House last year. This legislation will once again deny a valuable investigative tool to business while allowing its use by the Government. If the machine is unreliable, it is interesting to me that we are approving its use by the Central Intelligence Agency, the Federal Bureau of Investigation, and the Department of Defense—agencies that are responsible for the security of our Nation, as well as exempting our own employees.

This inconsistency remains in the conference agreement.

Mr. Speaker, I am also concerned that this conference report is being brought to the floor in haste. Most Members were under the impression this bill would be considered later this week, and now we find that it will be the first article of business today. This legislation is too important to American business and the American employee to be set on such a fast track.

I urge my colleagues to vote no on the conference report.

REVIEW THE LOW-LEVEL RADIOACTIVE WASTE POLICY ACT

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, I have introduced a resolution, House Resolution 453, urging a congressional review of our current low-level radioactive waste policy, which makes each State responsible for disposal of its own low-level radioactive waste. States have done this by either choosing to construct their own sites or joining compacts to build regional facilities.

Taken at face value, this resolution seeks to resolve several issues that need to be addressed before States and compacts begin siting, building, and licensing disposal sites.

Although we would like to wash our hands of the matter, Congress and the appropriate committees need to answer the critics and set the record straight on these issues to keep this process on track and on schedule with the congressional milestones.

For starters, we need to review how many sites are needed, what these sites are going to cost, what constitute low-level waste, and what improved technology and better management practices can do to ensure adequate protection from this waste once it deposited at these sites.

If compact opponents succeed in breaking them up, we won't be any closer to building these needs storage facilities and we will be back where we started. I urge my colleagues to consider consponsoring this resolution (H. Res. 453).

COMMENDING PRESIDENT REAGAN FOR HIS EFFORTS ON BEHALF OF HUMAN RIGHTS

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, President Reagan and General Secretary Gorbachev are today winding up their fourth summit meeting—a meeting which has brought both superpowers closer together.

Mr. Speaker, I am pleased to rise to particularly commend the President for his efforts in posturing human rights while at the Moscow summit and in placing the question of human rights at the top of his agenda with the Soviet leadership.

We are proud of the fact that the President took the time and opportunity of his visit to meet with Soviet representatives, Soviet dissidents, divided family members and religious activists, demonstrating our Nation's concern and support for their efforts to exercise their human rights.

Mr. Speaker, I invite my colleagues to join in commending the President for his eloquent words and actions for human rights while in Moscow.

AN OVERDOSE OF PANIC MAY BE ALMOST AS LETHAL AS AN OVERDOSE OF DRUGS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, Washington has been gripped with drug

hysteria. One need only examine the drug amendments introduced over the last several weeks to see that we are flailing wildly at a problem whose resolution escapes us. I fear that the good sense of this body is losing out to political panic.

I believe strongly in this body and in its ability to make democratic decisions for the American people. But when we react out of fear, instead of out of reason, we leave innocent victims in our wake.

In the 1940's we feared the war, and we locked up thousands of innocent Japanese-Americans in squalid internment camps.

In the 1950's we feared communism and we smeared the reputations of many innocent people in an era which most Americans now regret.

Now in the 1980's we fear drugs. Out of this has come the Walker amendment which would punish entire offices, even entire factories, for a single drug conviction of a single employee.

If we permit this legislation to pass, history will recall this as yet one more sorry instance of overkill by Congress to stamp out the pervasive fear of drugs.

Piecemeal drug legislation born of wild frenzies every couple of years is simply ineffective. We went through a similar paroxysm after the death of Len Bias, and what do we have to show for it? A situation that has grown progressively worse.

I say to my colleagues, it is time to roll up our sleeves and dig into the difficult but critical task of forming a cogent and comprehensive response to drugs in our society, a response that we will work at every week and every month, not just a few days once a year. A response that may not be dramatic or immediate but will be effective.

I say to my colleagues, one thing is clear amidst this turmoil; an overdose of panic may be almost as lethal as an overdose of drugs.

TARGETED EXPORT ASSISTANCE PROGRAM

(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, critics of the Targeted Export Assistance Program, or TEA, have cited a recent GAO study of management problems with the program as their reason for seeking to gut this program.

While we should take every needed step to ensure that the program is effectively managed, we shouldn't undercut one of our most effective tools at reducing our $150 billion trade deficit.

The TEA Program has achieved dramatic results promoting American products overseas.

For example, it increased the sales of American peaches and fruit cocktail by 400 percent in countries where it has been implemented, while sales of those products remained the same or declined in countries without a TEA Program.

United States wine sales to Japan increased by 56 percent in 1 year after TEA promotions of American wine in that country.

Mr. Speaker, if we really want to reduce our trade deficit, we need to aggressively promote American products overseas. The TEA Program does this, and does it well. It deserves our enthusiastic support.

PRESIDENT REAGAN'S SUCCESSFUL FOREIGN POLICY

(Mr. WORTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WORTLEY. Mr. Speaker, the occasion of the Moscow summit is an appropriate time to commend President Reagan for his conduct of foreign affairs. His willingness to meet with the leader of the Soviet Union—for an unprecedented fourth time—shows that he is willing to go the extra mile for better relations between our two countries.

Ronald Reagan is the ninth President of the United States during the nuclear age. But, he is the first President to negotiate a reduction in these awesome weapons. The INF Treaty will—for the first time ever—eliminate an entire class of nuclear weapons. I believe that the President's continuing efforts will promote a more secure and peaceful future for the United States.

Through it all, President Reagan has demonstrated the truth of Churchill's axiom: "never be afraid to negotiate." He has confirmed that this is true only if we are not afraid to walk away from a bad deal. He has also established that negotiations are not a substitute for the ability to defend our country. Instead of negotiating away our strength, he has improved our situation by negotiating from a position of strength.

It is questionable whether we will ever be able to completely rid the world of nuclear weapons, but we should welcome levelheaded attempts to reduce the possibility of conflict. There is much work to be done in this area, and it must be done without endangering our national security. I have the highest respect and confidence in President Reagan's leadership in this difficult and historic effort.

CONFERENCE REPORT ON H.R. 1212, EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

Mr. WILLIAMS. Mr. Speaker, I call up the conference report on the bill (H.R. 1212) to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SCHUMER). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of May 26, 1988.)

The SPEAKER pro tempore. The gentleman from Montana [Mr. WILLIAMS] will be recognized for 30 minutes and the gentleman from Vermont [Mr. JEFFORDS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation, as the Members will recall, originally passed this body on November 4, 1987. It was accepted by a vote 254 to 148. The legislation had bipartisan support with almost 50 of our colleagues on the other side of the aisle joining in its passage. Similar legislation passed the other body on March 3, 1988 by a vote of 69 to 27. The conference report which we now bring before the House was accepted unanimously among the conferees.

Mr. Speaker, this legislation is supported by a number of groups and I would like to read into the RECORD just a few of them: the American Bankers Association, the National Grocers Association, the National Retail Merchants Association, the International Mass Retailing Institute, the National Restaurant Association, the American Association of Railroads, the National Association of Convenience Stores, the American Pharmaceutical Association, the American Civil Liberties Union, the Securities Industry Association, the UFCW and the AFL-CIO.

Mr. Speaker, let me take just a couple of minutes and explain some of the differences between the bill that passed the House and the conference report that is now before us.

The House-passed bill prohibited the use of lie detectors for preemployment and employment screening with only two exceptions. Those exceptions were, first, for security guard companies, and second, for employees who had access to or handled drugs.

The Senate-passed bill prohibited the use of the lie detector for preemployment screening only exempting security guard companies.

The Senate debate included a colloquy in support by the way of the House drug exemption which the conference committee later accepted.

The Senate-passed bill included a broad exemption for post-incident testing in all industries. This confer-

ence agreement accepts the security guard and drug exemptions, but subjects them to a rigorous set of conditions that by the way were found in the Senate bill. The conferees in accepting the Senate postincident exemption subjected that exemption to the same rigorous conditions adding the requirement that the employer must execute a statement that that employer must retain on file for 3 years. An employer may request such a test of an employee only when the employee had access to the property and only if the employer has a reasonable suspicion that the employee was involved in the incident. Prior to requesting a polygraph test the executed statement to which I have just referred must be provided to the employee prior to the test.

This statement will identify the specific loss to the employer and explains the basis of the employer's reasonable suspicion that the employee was involved in the incident. The conference agreement provides that the refusal to take a polygraph test may not serve as the basis for adverse employment action without additional supporting evidence.

We worked closely with the administration, most particularly the Department of Labor, in developing this conference agreement. The Department of Labor is now satisfied and has expressed their support and is expressing their support for this legislation to the White House.

□ 1330

Mr. Speaker, I reserve the balance of my time.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report on H.R. 1212, the Employee Polygraph Protection Act of 1988. I urge my colleagues to give it their support as well.

Mr. Speaker, the use of so-called lie detectors has increased dramatically over the past few years, and yet their accuracy hasn't improved one bit since 1923 when the D.C. Court of Appeals ruled they did not have such scientific recognition as would justify their admittance into evidence. Sixty-five years later, scientific recognition continues to elude the lie detector. Groups such as the American Medical Association and American Psychological Association have taken strong stands against the use of polygraphs and other lie detectors.

The headlines have been full of scandals—from spy rings to stock manipulators—whose culprits have passed polygraphs with flying colors. The truth is, the truth isn't so easy to determine. You can't just plug a person into a machine and determine whether or not he or she is lying.

While some of my colleagues may still have concerns about this conference report, you won't hear any congressional clamor for preemployment or random testing of Congressmen or candidates. Can you imagine what the needles would do if we were all asked if we've ever taken a wee bit more than our share of credit? Or if we've ever made a promise we didn't keep?

I'll match my record against anybody's, but I will not match it against the inaccuracy of a pseudoscientific lie detector. My colleagues wouldn't, and America's workers shouldn't have to either.

Several States have already acted to prevent lie detector abuses. In my own State of Vermont, their use is generally banned. There has been no outbreak of crimes against Vermont's stores or customers.

Indeed, we have sought for years for any valid evidence that demonstrates the effectiveness of polygraphs in producing a more honest workforce. Do casinos in Nevada have a lower loss rate than those in New Jersey? Do stores in Vermont have more thefts than those across the river in New Hampshire? The silence from polygraph proponents has been deafening, and the answer, apparently, is no.

The conference report before us does not ban all uses of the polygraph, but it does eliminate the use of all other types of lie detectors in private employment. And it does restrict when a polygraph may be used, and what procedural safeguards will be in place to protect employees and employers.

In general, polygraph testing will be permitted when an employer has suffered a specific incident of economic loss or injury and the employer is unable to identify the responsible employee. A driving mishap, for example, could not serve as a pretext for a polygraph test if the employer knew full well who was in the driver's seat.

Likewise, such testing is only permitted if the employer has a reasonable suspicion and the employee to be tested had access to cause the injury or loss. These facts must be committed to writing by the employer. Moreover, any employee subject to a polygraph test must be fully informed of his or her rights and may not be discriminated against simply because he or she failed or refused to take a polygraph test.

Employers will continue to be able to use polygraphs, but only in those limited circumstances where polygraphs may have some scientific validity. As the Office of Technology Assessment found in its study of the issue:

> There is some evidence for the validity of polygraph testing as an adjunct to typical criminal investigations of specific incidents . . . However, there is very little research or scientific evidence to establish polygraph test validity in large-scale screening situations, whether they be pre-employment, preclearance, periodic or aperiodic, random, or dragnet.

This compromise does not satisfy everyone. Some of my colleagues would like to ban the use of polygraphs entirely, and some would like their use entirely unfettered. But it does outlaw the vast majority of tests, while prudently restricting those remaining. This conference report represents a solid compromise. It was adopted unanimously by the conferees, not all of whom supported this legislation when it was adopted by the House last November.

The conference report is supported by a wide range of interests. We worked closely with the Department of Labor to address the administration's concerns, and have successfully done so.

We also worked with several employer organizations, and the conference report has their support as well. These organizations represent some of the most frequent users of polygraphs. They include the American Association of Railroads, the American Bankers Association, the National Association of Convenience Stores, the National Grocers Association, the National Mass Retail Institute, the National Restaurant Association, and the National Retail Merchants Association. The conference report also has the support of a broad coalition of labor and civil rights organizations, including the United Food and Commercial Workers Union and the American Civil Liberties Union. I want to commend these organizations for their positive contributions.

I also want to commend my colleagues for their efforts. In the other body, Senators HATCH and KENNEDY have worked effectively to secure support for this legislation. Their staffers, Kevin McGuiness and Jay Harvey, deserve commendation as well. In the House, PAT WILLIAMS has been a forceful and thoughtful leader and has been ably assisted by Jon Weintraub in this effort. STEVE GUNDERSON, the ranking minority member of the Employment Opportunities Subcommittee, has contributed throughout the process.

Finally, I want to briefly recall the work of my friend Stew McKinney. This issue was a special concern of his, and for years he worked to prohibit the use of lie detectors, introducing legislation, testifying, rounding up support, year in, year out. I'm sorry he's not with us today.

Mr. Speaker, this is a solid bill, and a significant step forward. I urge my colleagues to give it their overwhelming approval.

Mr. WILLIAMS. Mr. Speaker, I yield 5 minutes to my friend and colleague, the gentleman from Georgia [Mr. DARDEN].

Although the gentleman and I have not entirely agreed on every aspect of the appropriate way to contain the use of polygraphs, nonetheless his leadership has meant that this issue has received a good hearing in the House and a considerable discussion across the country. I commend him for his leadership.

Mr. DARDEN. Mr. Speaker, I thank the gentleman from Montana for yielding.

I want to take, first of all, a moment to commend him on his very strong commitment to principle in looking at and examining this legislation, and while he and I disagree basically and fundamentally on this issue, I believe it should be a State issue, he believes it should be a Federal issue, I still certainly commend him on his dedication to principle and his hard work on this very important legislation.

Quite frankly, Mr. Speaker, I believe that this is an issue best left for the States to determine. Currently more than 20 States already have some type of legislation regulating the polygraph in which basic minimum standards are set forth. In fact, in the home State of the gentleman from Montana, they are even more stringent regulations than are allowed in this bill as well as in Vermont, which is the home, of course, of the distinguished ranking minority member.

Still, Mr. Speaker, the most frequent complaint that we as Members of Congress receive so often from our State legislators is, "Let us keep our authority. Let us make those decisions which more closely affect us. If we are to be a Government of a federalistic concept, let us exercise our authority in those areas in which we are qualified and capable of operating."

First of all, I oppose this conference report, Mr. Speaker, on the grounds that this is best left up to the individual States, and this is one more intrusion of the Federal Government into what should properly be the role of the States, of the several States throughout this Nation.

Second, Mr. Speaker, I am concerned and alarmed at so many exemptions being granted in this bill if, in fact, the polygraph is not reliable or a valuable investigative tool.

Mr. Speaker, this bill exempts Government and intelligence employees including employees of the CIA, the FBI, and DIA and every State and local government, and once again, Mr. Speaker, we have done it once more. We have exempted our own employees, our employees who work for us day in and day out, and certainly who ought to have some employee protection. We are exempting them from the provisions of the Employee Polygraph Protection Act, so it is all right to tell business that they can go forward and not use a polygraph in certain circumstances, but we are saying to ourselves as Members of the Congress who ought to be setting an example that we can administer a polygraph as we see fit, at midnight or 5 a.m. in the morning, in a star chamber or otherwise, under any circumstances, no restrictions on the polygraph of congressional or Government employees, but we are telling American business that, "No, your employees are being protected." If we want to protect employees, why do we not protect the employees of the Government, of the Congress and of the administration as well as State and local employees?

Who else are we exempting, Mr. Speaker? We are exempting persons engaged in the manufacture, distribution or dispensing of controlled substances. Certainly we ought to do that because everyone knows that these people are involved in very difficult and delicate responsibilities. But once more if the polygraph works on people involved in controlled-substance manufacturing and dispensing, why will it not work on persons who handle large amounts of cash or money? Once more, the old double standard.

I guess the best deal of all, and our congratulations should go out to the private security industry, Mr. Speaker, because they have the biggest exemption of all. It is all right if you are involved in the private security industry, because then you can use the polygraph however you see fit. Your employees are not protected.

□ 1340

But once again we have carved out special deals and special considerations for Government and intelligence employees, persons involved in the manufacture, dispensing, and distribution of controlled substances and the private security industry.

So I guess my question, Mr. Speaker, is if this is such a good bill, and if this polygraph is such quackery or witchcraft, why do we not apply it fully across the board and give the same protection to everyone that we are giving to those employees within the private sector? It seems like the private sector is being protected a little too much, Mr. Speaker, while we are not doing what we should on behalf of the Government and the other public employees.

Internal theft, Mr. Speaker, amounts to $2 billion. We are taking a backward step, in my view, toward preventing this, and I urge a no vote on the conference report.

Mr. JEFFORDS. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, the conference report that is in front of us today is living proof that the legislative process can indeed work. I was one of those Members who led the opposition to this particular legislation when it was considered in the House of Representatives earlier, and yet I am proud to come before my colleagues today in support of the conference agreement because I believe the legislation in front of us today really represents a bipartisan effort to address a very difficult problem in our Nation's workplace. That is the increasing use of the polygraph as an employment tool.

Through the process of considering this legislation, we really have achieved what I would call a proper balance, on the one hand allowing a legitimate, proper use of the polygraph as an investigative tool, and at the same time protecting the legitimate rights and concerns of America's workers.

I was one of those who was opposed to the total ban of the polygraph. I believe that while it may not be purely or totally scientifically accurate, it is a bit hypocritical for this Congress to say we will use the polygraph for such important uses as for national security purposes but we will not allow the five and dime stores in our small towns to use it to investigate internal theft. While the polygraph can be subject to abuses or inaccuracies, the scientific community has said that if the exam is properly used as an investigative tool focusing on a specific incident, and if properly conducted, those tests can and are scientifically reliable. Therefore, the conferees determined that the most fair way to deal with the use of the lie detector by employers was to build upon the approach that was taken by the Senate that is consistent with this existing scientific evidence. That is, No. 1, to allow all industries the use of the polygraph, but only as an investigative tool after a theft or a crime has been committed, and in those situations where testing does occur, the testing must be conducted under strict regulations.

This approach, as the gentleman from Vermont said, is almost identical to the amendment which I offered here on the floor of the House when we considered this legislation earlier and which was narrowly defeated. I am now proud to be back in support of that same concept in this conference agreement.

If enacted, this conference agreement will allow for polygraph testing within all industries of current employees, but only as an investigative tool once a theft or crime has occurred. Employees who are requested to take polygraph examinations must have had access to commit the crime or theft under investigation and must be under reasonable suspicion of committing that act.

Second, it prohibits polygraph testing for any preemployment screening of job applicants except in the pharmaceutical or private securities industries. As I think we all know, these two

exemptions from the preemployment ban have been debated, and in these limited cases we feel that justification exists to allow preemployment screening for these two industries.

Third, we prohibit random testing of current employees for no cause in all industries at all times.

Yes, we do not cover the legitimate Federal, State, and local government use of lie detectors under this legislation. We do not ban or restrict such testing mainly, as I think we have indicated here before, due to concerns over national security at the Federal level and similarly, whether it be for local police work or State police forces, and so forth, we do not ban legitimate testing where State and local governments determine such examinations are warranted.

Finally, Mr. Speaker, I think it is important to note that however the polygraph is used in the future it will be used under a totally new set of Federal guidelines. We worked very closely with the Department of Defense and their polygraph experts to determine the proper method by which a polygraph test should and ought to be conducted. Of course, we do not preempt in this legislation more restrictive State laws providing increased local control.

In conclusion, then, let me point out that we have achieved a bipartisan consensus, a workable solution. We have worked with the Department of Labor and have satisfied their particular concerns over this legislation whereby we can stand here today and say that they are in support of the conference agreement.

Mr. Speaker, the legislative process in developing this conference agreement has worked, and in the process we are protecting American workers, but we are also providing America's business with a legitimate investigative tool. I encourage Members' support for this conference agreement.

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the speaker just preceding the last speaker mentioned an issue which may find to be a telling and certainly a sensitive issue, and that is why does the legislation exempt Government, the assumption being inherent I think in that argument that we are doing to the private sector something we are unwilling to do to the public sector; that is, to ourselves. In fact, this legislation does move to finally bring the private and the public sector employees into parity.

As Members know, the public sector employees are protected by the Civil Service Act and agreements emanating from that act. The Congress of the United States and many of the agencies voluntarily have placed limits on the number of polygraph examinations which they give to their Federal employees. Those tests are highly regulated.

The difficulty has been that the same has not been true in the private sector. The Polygraph Association estmates that last year there were more than 2 million lie detector tests given to American citizens. I suppose when folks hear that they think that most of those tests are being given by the local police or perhaps by Federal agencies such as the FBI or the CIA. But of those 2 million-plus tests given last year to American citizens, 98 percent of them were not given by Government, they were given by the private sector to America's workers, and of all of those tests given by the private sector, those close to 2 million tests on American citizens given by the private employers, 75 or 80 percent of those tests were given to people who simply want to get a job from that employer, who are not even working for that employer, the lie detector test is thus being used as a screening device.

So the House of Representatives, in adopting this conference report, is trying in fact to establish parity between the private and the public sector.

Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. MARTINEZ], the chairman of the subcommittee which so ably handled this bill here in the House.

Mr. MARTINEZ. Mr. Speaker, I rise to commend the leadership of Chairman HAWKINS, Mr. WILLIAMS, and Mr. JEFFORDS for passing this critical legislation that balances the rights of workers with the concerns of businesses in the use of polygraph lie-detectors.

We know that businesses suffer an annual property loss rate of $40 billion. We know that internal thefts and abuse can gravely damage a company's ability to do or stay in business. While I personally think that sound auditing methods and background personnel research can solve these problems, neverthless the business community has felt the need to rely on the use of polygraphs to investigate thefts and sabotage. This bill would allow companies to continue to use these investigative methods.

On the other hand, workers have been subjected to the random and arbitrary use of lie detectors at an undue risk to their jobs, dignity, and professional integrity. Polygraphs have only the value of measuring stress, not the clear-cut discernment of truth or dishonesty. For these workers, we offer due process protections and respite from their abuse.

Mr. Speaker, in this bill, we have established a clear series of guidelines or the use of the lie detector machines: when they can be used, how they are to be used, upon whom, and by whom. We have added measures and documentation requirements that give better assurance of accuracy, relavence and appropriateness so that both the employer and worker can view the polygraph in a more objective light.

I commend the englightened Members of Congress who have worked so diligently on this legislation that came out of my subcommittee originally. Congress must be commended for exorcising the voodoo element from this detection procedure and for bringing polygraph use into the 20th century of responsible business application. I urge my colleagues to support this critical bill to our private sector.

Mr. JEFFORDS. Mr. Speaker, I yield 4 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to this conference report, and I will urge the President, to veto it should it pass. Even though this legislation has been substantially improved from the original House version because of the addition of a number of exceptions, it still essentially deprives most private sector employers of the opportunity to use preemployment polygraph examinations.

Mr. Speaker, I want to compliment the gentleman from Georgia [Mr. DARDEN] for his outstanding statement. He has raised a number of significant questions.

It is interesting to note that the conference report exempts Federal, State, and local governments from a polygraph ban. This causes me to wonder why opponents of polygraph exams claims on one hand that they are so ineffective that they should be outlawed, yet turn around and allow their use by the Government. If they truly are ineffective, why not ban the use of polygraph exam by everyone? Instead, the sponsors of this bill discriminate against private sector employers by exempting Federal agencies.

However, this bill does not discriminate against all private employers because there are a limited number of exceptions. It allows the use of polygraph exams by private employers engaged in Government intelligence and counterintelligence work, security service, and the manufacture and distribution of drugs. These exceptions make sense, but why discriminate at all? Why are convenience store operators, jewelers and trucking firms operators, to name a few, not included? It does not make sense to include some employers and not others.

Right now, 32 States have license and certification requirements for polygraph examiners; 44 States have laws governing the use of polygraphs in the work place. This is a much more responsible approach than to issue a Federal prohibition that ignores local

interests. No Federal regulator can know better than local and State official about the particular circumstances, customs and norms of their own areas, so this is just another example of big government stepping in to micro-manage commercial practices over which they should have no concern.

I understand the conference agreement says the bill's provisions do not preempt any local or State law that is more restrictive on polygraphs, but it will preempt laws that are allegedly less restrictive even if the State in question already has a legal structure in place. This a a clear example of the Federal Government overriding local government and disregarding the wishes of the voters.

The conference report refers to a limited exception for the use of polygraph exams in an ongoing investigation involving economic loss to a particular business. However, this provision is so narrowly drawn, and the risks of liability so significant that no employer will be able to actually use the polygraph to investigate a theft.

Prior to the polygraph exam the employer must provide the employee with a signed statement containing the reasons why the employer is suspicious about the particular employee or group of employees being investigated, the specific incident and loss involved and the access that employee had to the stolen items. This clearly creates difficulty for the employer in terms of his relations with his workers, and could expose him to legal action by innocent employees.

It is entirely possible that such provisions, which are intended to protect employee rights, could backfire. Employers would be tempted to fire the whole staff and hire a new group, rather than go through the cumbersome and potentially dangerous procedure mandated by this legislation.

Mr. Speaker, the sponsors of this bill claim it exempts sensitive sectors from the prohibition, but in reality it will eliminate the use of the polygraph for about 90 percent of our private employers. Over the years, we have permitted the Government to use polygraphs because they are effective in screening out security risks or in helping to prove a person's innocence. As a former prosecutor, I have seen firsthand how the polygraph can be used effectively as an investigative tool.

We in Washington use the polygraph to screen applicants for the Capitol Police Force, so why shouldn't airlines, trucking firms, daycare centers nursing homes, jewelers, apartment owners, hotels and motels, among others, do the same. They have just as legitimate concerns about protecting the safety of their customers—which are, after all you and me as do we in Government. This bill unfairly discriminates against the private-sector employers, it hurts their ability to protect us all from dangerous employees, and it should be voted down. And, if it passes, I will strongly urge the President to veto it.

□ 1355

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Louisiana [Mr. LIVINGSTON] has done an admirable job of outlining some of the objections which those who will be in opposition to this conference report share. Those objections perhaps go to the heart of this and other workers' rights legislation of this type.

The question simply is this: Does the public, through their Government, have the right to try to legislate against wholesale interstate abuses in the work place? Many of us believe that issue was solved in America more than 50 years ago when America began to set down, through Federal law, the basis of worker protection legislation.

As a sponsor of this legislation, I like to believe that is in the tradition of that cherished effort in America.

I believe the legislation is not just timely, it is past time that the Federal Government move to correct what has clearly been an abuse of the rights of American citizens who are seeking employment or simply trying to hold a job.

Mr. Speaker, I have no additional requests for time. However, I will reserve the right to close and perhaps my colleague has other speakers.

Mr. JEFFORDS. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, while this conference report is better than the original bill passed by the House last November, I must rise in opposition to it for several reasons.

First, it continues the double standard by applying a prohibition to the private sector which Congress is unwilling to accept itself, or apply to other Federal agencies. This bill provides for a blanket prohibition of a tool relied upon by the private sector to protect itself from on-the-job crime, theft, and industrial espionage. While it would permit incident specific testing in some cases, many employers believe the provisions of the bill are so restrictive and punitive as to make such testing unworkable. Yet, the bill permits the use of polygraph tests on all government personnel.

I do not believe a satisfactory case has been made for Federal Government access to the polygraph while banning it in the private sector. Once again we are applying that old double standard.

Second, the provisions which allow incident specific testing in the event of economic loss are so narrowly drawn and the risks of liability are so significant that the provisions are unworkable for most employers. The requirement of a "reasonable suspicion" test, I believe, is too strong. The conferees state that the term "reasonable suspicion" refers "to some observable, articulable basis in fact beyond the predicate loss and access required for any testing." I am not certain what that means, and I believe this test is sufficient to deter an employer from using the polygraph. Additionally, the bill provides for civil penalties up to $10,000 which could be imposed for a simple failure to post notice. This is a hefty penalty for a small businessman.

Finally, I oppose this bill because I believe polygraph testing, which is currently regulated at the State level, should remain a responsibility of the States. In some States, polygraph testing is banned, and this option should remain available to the States.

For these reasons, I urge a "no" vote on the conference report.

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

In closing, I want to again make the point that this conference report does indeed make an effort for the first time in the United States to establish parity between the public sector and the private sector. It it did not, I too would join my colleagues in criticism of the House for treating the public sector, particularly the Federal Government, differently that we are treating private sector employees.

The private sector is now unregulated by either Federal law or regulation whereas the public sector is regulated. The legislation now brings the private and public sector into parity.

Mr. Speaker, I understand my colleague has one additional speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. JEFFORDS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I shall be very brief. I understand there have been excellent statements made on behalf of this bill. I rise in support of the conference report.

Mr. Speaker, I rise in support of this legislation, the conference report to accompany the Employee Polygraph Protection Act of 1988.

I believe this conference report represents a sound and reasonable compromise and I would commend the conferees for their efforts to seek a resolution which I believe we all can support.

While the report resembles the bill approved by the House in November. However, the conferees did include several changes proposed by the Senate and which encompasses the key provisions of the well-constructed Gunderson amendment considered by the House during the debate on H.R. 1212.

Essentially, the conferees retained the House exemption for use of polygraphs at the Federal, State, and local government levels

and for national security purposes. The agreement also retains the use of these tests by employers engaged in the manufacture, distribution, or dispensing of controlled substances; those who deal in the transportation of toxic or radioactive waste; and for those who protect nuclear or electrical power or water supply facilities.

In accepting the Senate compromise, the conferees included a limited exemption for the use of polygraphs in an ongoing investigation involving economic loss to an employer's business. In such a case, an employer could request a test if the employee had access to property in question and if the employer had a reasonable suspicion that the employee was involved. The bill contains safeguards, including a requirement that employers, prior to testing an employee, notify that person of his or her rights. The bill also specifies that no employee can be denied employment, discharged, or disciplined solely on the basis of the results of a polygraph test. The employer would have to have additional corroborating information before taking any of these actions.

Finally, this report retains the House-approved Roukema exemption for firms whose primary business is to furnish protective security services for sensitive facilities and certain types of property. This provision would include armored car, uniformed and plainclothes guards, and security alarm companies. The administration of polygraphs is only allowed when the employees are engaged in the protection of currency, negotiable securities, precious commodities, and proprietary information.

While I do support this report, I would be remiss if I failed to say how disappointed I remain at the fact that the conference report does not contain an exemption for federally insured or federally regulated financial institutions, which I have always believed was as important as some of the other exemptions permitted in this bill.

The protection of the integrity of our savings, lending and trading institutions, and their employees, which handle enourmous amounts of currency and which comprise the very heart of our economy, should have been included in this final report.

Mr. Speaker, I want to again congratulate the conferees for achieving this reasoned compromise on the use of polygraph tests.

I urge my colleagues to support the conference report.

Mr. HAWKINS. Mr. Speaker, I rise in strong support of the conference report on H.R. 1212, the Employee Polygraph Protection Act of 1988.

The purpose of this legislation is to protect American workers from the increasing use and abuse of polygraphs in the workplace. The effort to control the use of polygraphs in the workplace is not a new phenomenon. Twenty-two States and the District of Columbia prohibit the use of polygraphs in the private sector while 19 States regulate their use. Regrettably, many of these State laws are being circumvented.

Despite these prohibitions and regulations, more than 2 million polygraph tests were given last year. Approximately 90 percent of these tests were given by private employers. Although the majority of these tests were given for preemployment testing, employers also use these tests to determine guilt or innocence of current employees. These tests have been used by employers to ascertain certain beliefs of employees or applicants regarding race, religion, or politics.

During the course of hearings on this legislation, the principal author of the 1983 Office of Technology Assessment report entitled, "The Scientific Validity of Polygraph Tests" told the committee that "from a scientific perspective, there is little evidence to suggest that polygraph tests are a valid means of verifying an individual's truthfulness or deception. A polygraph instrument cannot detect truth or deceit even in the hands of the most skilled examiner."

H.R. 1212 would protect workers who are wrongfully denied employment because of the results of these tests. Thousands of applicants and employees have been denied jobs or promotions despite the fact that these test results have been proven to be unreliable.

I want to commend my colleagues on the Subcommittee on Employment Opportunities for their fine efforts which culminated in unanimous approval of the conference report by the House and Senate conferees.

The compromise agreement retains the exemptions for Federal, State, and local governments as well as for national security. The conference agreement also retains the House-passed exemptions for security guards and for employers who dispense, distribute, or manufacture controlled substances. The conference agreement allows a limited exemption which permits employers to request an employee to submit to a polygraph test for ongoing investigations which involve economic loss or injury to the employer's business. The agreement also sets forth certain rights for the examinees and establishes certain qualifications for the examiners.

I believe that we have fashioned a bill which protects American workers against abuse and misuse of the polygraph in the workplace and I urge my colleagues to support this legislation.

Mr. GRADISON. Mr. Speaker, I rise in opposition to the conference agreement on H.R. 1212, the Employee Polygraph Protection Act, and urge its defeat by the House.

Last November, when the House last considered legislation banning the use of polygraphs by private employers I voted against the measure. Although I recognize that the conference agreement on H.R. 1212 is significantly different in a number of respects from the bill that passed the House on that occasion, the legislation retains many of the provisions that led me to oppose the bill then.

The conferees agreed to outlaw the use of polygraph tests by private employers to deny any employee, or prospective employee, a job. The bill does allow for certain exemptions. For example, private employers would be permitted to use polygraphs in ongoing investigations involving an economic loss or injury when the employer has reason to believe an individual worker or workers was involved.

The conference agreement also retains the exemption for Federal, State, and local governments. It also provides a specific exemption for private contractors involved in intelligence and counterintelligence functions to conform with current law regarding the use of polygraphs where an individual has access to classified information.

I do not dispute the need to maintain the option for the Government to use the polygraph as one tool where access to sensitive and classified information is concerned. I do, however, have grave misgivings about enacting a general ban on the use of polygraphs in the private sector when, at the same time, we retain a general right for Federal, State, and local governments to use these instruments. Either polygraphs are effective or they are not. Does the effectiveness of the polygraph depend on whether it is used in the public or private sector?

Certainly, the polygraph should never be used as the sole criteria by which employment opportunities, or guilt or innocence, are determined. Yes, the rights of workers are important. If this legislation provided for guidelines governing the use of the polygraph, by both public and private sector, I could support it. However, for the Federal Government to impose yet another rule on the private sector with broad exemptions for Government is the height of hypocrisy. I urge the defeat of the conference agreement.

Mr. BRENNAN. Mr. Speaker, today I rise in strong support of the conference report on the Employee Polygraph Protection Act of 1988, H.R. 1212. This legislation, which has the support of the administration, offers a modest solution for a serious problem.

Currently, many companies require employees or prospective employees to take a lie detector test. In such cases, the employer operates under the presumption of guilt rather than innocence. Refusal to take the test or failure to pass the test usually results in the individual being fired or not hired. Such action is clearly unjust and discriminatory.

Polygraph tests, which measure stress, not truth, in my judgment are not reliable. Their inaccuracies are so well-documented that U.S. courts do not permit test results to be used as evidence. Furthermore, our criminal justice system presumes that an individual is innocent until proven guilty, not vice versa. To allow employers in nonsensitive industries to continue to use these tests would be unconscionable.

Right now, criminals have more protections from these gadgets than working men and women. It is time to change this situation.

The conference report on H.R. 1212 is a reasonable measure and deserves the support of the Members of this body.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, in closing I would be remiss if I did not take just a moment to commend the chairman of the subcommittee for the tremendous amount of work that he has done in bringing this bill, in the form that we have it, before the body today. He has worked hard and long for many years in order to perfect something which we could get the majority of both and House and the Senate to vote for.

I want to thank him most profusely for all the effort he has put into this

bill and urge my colleagues to support the conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. WILLIAMS. Mr. Speaker, in closing I want to join my colleague in commending the Members on both sides of the aisle and particularly the staff who have worked very diligently and for several years to reach this point in the life of this legislation.

I want to remind my colleagues once again that last November this bill in different form passed the House 254 to 158 with substantial bipartisan support.

The legislation passed in the other body by a margin of greater than 2 to 1, again with bipartisan support. The members of the conference committee, some of whom voted against this legislation when it originally left the House were all unanimous in their support of bringing this conference report to you today with the recommendation that it do pass.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SCHUMER). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BARTLETT. 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 251, nays 120, not voting 60, as follows:

[Roll No. 159]

YEAS—251

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Applegate
Atkins
AuCoin
Bates
Bellenson
Bentley
Bereuter
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Byron
Campbell
Cardin
Carr
Chandler
Clarke
Clay
Clement
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Davis (IL)
Davis (MI)
DeFazio
Dellums
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Fish
Flake
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Frank
Gallegly
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grandy
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hamilton
Harris
Hawkins
Hayes (IL)
Hayes (LA)
Henry
Hertel
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jeffords
Johnson (CT)
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Pashayan
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickle
Price
Rahall
Ravenel
Regula
Richardson
Ridge
Rinaldo
Robinson
Roe
Rostenkowski
Roukema
Rowland (CT)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shays
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tauke
Tauzin
Thomas (CA)
Torricelli
Towns
Traficant
Traxler
Upton
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron

NAYS—120

Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bilirakis
Bliley
Brown (CO)
Bunning
Burton
Callahan
Chapman
Chappell
Coats
Coble
Combest
Craig
Dannemeyer
Darden
Daub
de la Garza
Derrick
DeWine
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Frost
Gekas
Gingrich
Gradison
Grant
Hall (OH)
Hall (TX)
Hammerschmidt
Hastert
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Jenkins
Jones (NC)
Kasich
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Leath (TX)
Lewis (FL)
Lightfoot
Livingston
Lott
Lujan
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (NY)
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Montgomery
Moorhead
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Rhodes
Rogers
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Rowland (GA)
Schaefer
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stangeland
Stenholm
Stratton
Stump
Sweeney
Swindall
Tallon
Thomas (GA)
Valentine
Vander Jagt
Vucanovich
Walker
Whittaker
Wortley

NOT VOTING—60

Anthony
Aspin
Badham
Berman
Biaggi
Bosco
Boulter
Buechner
Bustamante
Carper
Cheney
Crane
Crockett
DeLay
Duncan
Feighan
Foglietta
Frenzel
Gallo
Garcia
Gray (IL)
Hansen
Hefner
Inhofe
Jones (TN)
Kemp
Konnyu
Latta
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Lewis (CA)
Lowery (CA)
Mack
MacKay
Markey
Martin (IL)
McGrath
Mica
Moody
Ortiz
Porter
Pursell
Rangel
Ray
Ritter
Roberts
Rodino
Rose
Skelton
Spence
St Germain
Sundquist
Taylor
Torres
Udall
Vento
Weiss
Wilson
Yates
Young (AK)
Young (FL)

□ 1424

The Clerk announced the following pairs:

On this vote:

Mr. Gray of Illinois for, with Mr. Young of Florida against.

Mr. Markey for, with Mr. Lowery of California against.

Mr. Moody for, with Mr. Hansen against.

Mr. Boulter for, with Mr. Mack against.

Mr. McGrath for, with Mr. Konnyu against.

Mr. OXLEY changed his vote from "yea" to "nay."

Mr. ROE and Mr. THOMAS of California changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 1212, just agreed to.

The SPEAKER pro tempore (Mr. DONNELLY). Is there objection to the request of the gentleman from Montana?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 1801, JUVENILE JUSTICE AND DELINQUENCY PREVENTION AMENDMENTS OF 1988

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 442 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 442

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, de-

clare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1801) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1989 through 1992, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendment made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 442 is an open rule providing for the consideration of the bill H.R. 1801, the Juvenile Justice and Delinquency Prevention Amendments of 1988.

Mr. Speaker, the rule provides for 1 hour of general debate to be equally divided between the chairman and ranking minority member of the Committee on Education and Labor.

The rule provides that it shall be in order to consider the amendment in the nature of a substitute, recommended by the Committee on Education, and Labor, now printed in the bill as original text for the purpose of amendment under the 5-minute rule. And further provides that the committee substitute shall be considered for amendment by titles, and each title will be considered as having been read.

Mr. Speaker, the rule waives all points of order against the substitute for failure to comply with the provisions of clause 7 of rule XVI. This is the provisions against nongermane amendments. The bill as introduced only extended the authorization of existing programs, the committee substitute makes changes in the administration of those programs, and adds a new program and is therefore not germane to the bill.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 1801, is the reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974, for fiscal years 1989 through 1992. The bill also extends for 4 years the runaway and Homeless Youth Act, and the Missing Children's Assistance Act. In addition, Mr. Speaker, the bill establishes two new programs. The first program would create a community based prevention and treatment program related to youth gangs, the second program would provide grants and technical assistance to public and nonprofit agencies for transitional living projects for homeless youths aged 16 to 21.

Mr. Speaker, over the past few years I have had the opportunity to work with and support a multiservice youth agency that is located in Boston called Bridge Over Troubled Waters. Through Federal grants the bridge is able to provide quality programs and care to the hundreds of youths that are in need in the Boston area. The bridge provides, job counseling, medical and dental care, emergency housing, and educational programs for the many homeless and runaway young people in the Boston area. The dedication that this agency shows to the young people is to be commended, but because of the continued increase in the numbers of homeless and runaways in the Boston area the need for additional funding is still great.

That is why this bill is so important. There are hundreds of these kinds of agencies around the country that depend on the support of not only the Federal Government, but from volunteers and private donations. The Education and Labor Committee has given us a bill that will continue that support. The gentleman from Michigan [Mr. KILDEE] who has been a leader in this area for many years, is to commended for his tireless effort and his dedication to the young people and their families across the country.

Mr. Speaker, I urge my colleague to vote for the resolution and to support final passage of the bill.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, this bill has been on and off and on and off the schedule for action on the House floor. That is no indication that it is not an important bill. As a matter of fact, it is an important bill and I am pleased that it is scheduled for action today on the House floor.

Mr. Speaker, the bill made in order by this rule extends three different laws, all of which are designed to improve the condition of young people in trouble. Certainly we all want to do everything possible to prevent delinquency, help runaway and homeless youth and assist in returning missing children to their families. However, it is often easier to agree on the goals than on the specific means for achieving those goals.

Mr. Speaker, in this case Members should be aware that the administration would oppose this bill unless it is amended in a number of different areas.

The primary objection of the administration is that the goals of the Federal Juvenile Justice Grant Program have been achieved to the extent practicable. In order to make funds available for other higher priority programs of the Department of Justice, the President's budget proposed no budget authority for Juvenile Justice Programs.

At the same time, the administration does support reauthorizations for the Runaway and Homeless Youth Program and for the Missing Children's Assistance Programs, if objectionable amendments can be removed.

The rule before us is an open rule which will allow the House to make necessary improvements in the bill. Therefore, I will support this rule so that the House may soon begin to debate the Juvenile Justice and Delinquency Prevention Amendments of 1988.

□ 1435

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM HON. MARCY KAPTUR, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. DONNELLY) laid before the House the following communication from Hon. MARCY KAPTUR:

HOUSE OF REPRESENTATIVES,
Washington, DC, May 26, 1988.

Hon. JIM WRIGHT,
Speaker of the House, Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that an employee in my office has been served with a subpoena duces tecum issued by the Lucas County, Ohio Common Pleas court.

After consultation with the General Counsel to the Clerk, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

MARCY KAPTUR,
Member of Congress.

COMMUNICATION FROM HON. THOMAS J. MANTON, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. DONNELLY) laid before the House the following communication from Hon. THOMAS J. MANTON:

HOUSE OF REPRESENTATIVES,
Washington, DC, May 25, 1988.

Hon. JIM WRIGHT,
The Speaker,
House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that I have been served with a subpoena *duces tecum* issued by the Supreme Court, Criminal Term, County of Queens, State of New York Common Pleas court in the matter of the People of the State of New York vs. Henry Magri.

After consultation with the General Counsel to the Clerk, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

THOMAS J. MANTON,
Member of Congress.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION AMENDMENTS OF 1988

The SPEAKER pro tempore (Mr. DONNELLY). Pursuant to House Resolution 442 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. 1801.

□ 1438

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. 1801) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1989 through 1992, with Mrs. SCHROEDER 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 Michigan [Mr. KILDEE] will be recognized for 30 minutes and the gentleman from Iowa [Mr. TAUKE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, since 1974, the Juvenile Justice and Delinquency Prevention Act has successfully promoted the improved treatment of youth across the Nation.

While still protecting the public safety, the number of youth inappropriately incarcerated has declined and more are receiving treatment in family or community-centered programs.

H.R. 1801 extends this important act for 4 additional years.

In addition to the juvenile justice programs, the act also reauthorizes the Runaway and Homeless Youth Act and the Missing Children's Assistance Act.

The authorization for each of these programs is continued at its current level of "such sums as may be necessary."

The major provisions of the bill include:

Increasing the proportion of the annual juvenile justice appropriation available to the States in the form of formula grants;

Improving the compliance provisions governing State efforts to remove children from adult jails and lockups;

New requirements designed to address the serious problem of the over-incarceration of minority youth;

A new authorization to provide grants to establish and support community-based prevention and treatment programs related to juvenile gangs; and

A new authorization to provide grants to establish and operate transitional living projects for older homeless adolescent youth.

In addition, the bill contains a number of amendments designed to promote better administration and to facilitate congressional oversight of the programs.

On April 28, 1988, H.R. 1801 was ordered reported by the Committee on Education and Labor by voice vote.

Accordingly, it represents a strongly bipartisan effort on the part of the committee to further improve the treatment of our Nation's youth.

The bill is strongly supported by the Ad Hoc Coalition for Juvenile Justice and Delinquency Prevention, the National Coalition of State Juvenile Justice Advisory groups, the Child Welfare League of America, the National Network of Runaway and Youth Services, and the National Congress of Parents and Teachers.

I would like to thank those Members who have been working with us to develop a strong reauthorization measure—especially my colleague from Iowa, the ranking Republican on the subcommittee. It has been a genuine pleasure working so closely on such an important bill.

I urge all of my colleagues to support the bill.

Madam Chairman, I reserve the balance of my time.

Mr. TAUKE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I first want to take this opportunity to commend the gentleman from Michigan [Mr. KILDEE], the gentleman from California [Mr. HAWKINS], the gentleman from Vermont [Mr. JEFFORDS] and all the members of the Committee on Education and Labor for the outstanding work that has been done on this legislation. H.R. 1801 is the result of the legislative process working at its best. There were several hearings held in this city and across the Nation, including a very productive hearing in Iowa at which we acquired information about how the juvenile justice system is currently operating. We received excellent recommendations from experts, State and local representatives, and program administrators. During the course of this legislative process we have had open and bipartisan effort to transform many of these recommendations into legislation which extends and improves the Juvenile Justice and Delinquency Prevention Act.

The stated purpose of this Act is first, to provide the necessary resources, leadership and coordination to first prevent juvenile delinquency; second, to divert juveniles from the traditional juvenile justice system; third to provide alternatives to institutionalization of juveniles; and fourth, to improve the quality of juvenile justice in this country. Since 1974 when this Act was first created, considerable progress have been made towards meeting these goals. The institutionalization of status offenders, that is those young people who are not convicted of any crime but are simply in some difficulty, has been nearly eliminated in this country. The incarceration of juveniles in adult jails has been reduced significantly. Innovative and effective prevention and treatment programs have been developed and implemented widely across the country.

Despite this progress, a great deal more needs to be done. We need further improvements in the juvenile justice system and we think that this bill provides them.

First, this legislation focuses on the continued effort to remove juveniles from adult jails and lockups.

Second, this bill places greater emphasis on prevention programs to reduce juvenile delinquency, such as the very successful law-related education programs.

Third, this bill attempts to deal with some emerging problems such as the explosive issue of juvenile gang violence.

Fourth, this bill tries to ensure that the protection of juveniles' rights will be reinforced. Federal leadership is needed and must be continued in this area in order to continue the progress we have made to achieve the purposes of the Juvenile Justice and Delinquency Prevention Act.

H.R. 1801 improves the ability of the States to achieve compliance with the Act's mandates. It provides more resources to the States. It ensures that new compliance measures and sanc-

tions will be provided and it ensures flexibility to meet the Act's mandates. Greater attention is given to reducing the disproportionate incarceration of minority youth, and new authority is provided to address juvenile gang problems.

This legislation, in addition to dealing with the Juvenile Justice and Delinquency Prevention Act, also addresses two other important measures, the Runaway and Homeless Youth Act, and the Missing Children's Assistance Act are also extended and improved. New authority is provided to address the unique needs of older, homeless youth, which is an ever-growing problem in this Nation. Basic runaway shelter grants and the national hotline services are emphasized, and missing children's programs are focused on services.

Madam Chairman, I come today knowing that this is a good piece of legislation, knowing that the Members of Congress are united in our desire to meet the objectives contained in this legislation, and feeling confident in recommending passage of this bill.

Madam Chairman, I yield 5 minutes to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Madam Chairman, I rise in strong support of H.R. 1801, which would reauthorize the Juvenile Justice and Delinquency Prevention Act through fiscal year 1992. The act provides Federal assistance in the areas of prevention and treatment of juvenile delinquency, assistance to runaway and homeless youth and activities addressing the problem of missing children.

As the ranking minority member on the full committee, I first want to commend the two sponsors of the bill. As chairman of the Human Resources Subcommittee, DALE KILDEE has brought the same degree of compassion and foresight to this bill as he has to all of the other programs in his subcommittee's jurisdiction. As the ranking minority member on the subcommittee, TOM TAUKE has approached this issue with the characteristic blend of humanity and circumspection that we have come to expect from him. My colleagues and I derive considerable comfort from the fact that so many programs of importance to American youth and the family reside within the charge of these two most capable legislators.

Madam Chairman, this is indeed a bipartisan bill. Given the emotions and tensions raised by the subject of juvenile delinquency, it is impressive that this bill comes before the House with such a solid consensus as to the direction these programs must take.

One aspect of this consensus which should give comfort to my Republican colleagues is a recognition that more of these funds should be directed to the States. In the juvenile justice programs, the bill allocates 70 percent of the funds to the States by formula. Under current law, the OJJDP Administrator has had the discretion of allocating anywhere from 61 to 69 percent by formula. Historically, this percentage has been the minimal amount, with the Administrator maximizing the amount available for the federally directed Special Emphasis Prevention and Treatment Programs.

In recent years, the States have seen a dramatic decline in their allocations resulting from a one-third decrease in appropriations since 1981. By increasing the percentage of the funds going to State formula grants, this bill will help restore some of these funds to the States with or without increases in appropriations. While this will require some belt tightening in Federal discretionary efforts, the 70 percent share of State funds is as low a percentage as you will find among the programs within our committee's jurisdiction.

In increasing the share of State funds, we are certainly strengthening those provisions which are considered by many to be the cornerstone of the act—that is, the deinstitutionalization of status offenders [DOS] and the removal of juveniles from adult jails and lockups.

In 1974, based upon troubling statistics regarding the incarceration of juveniles, the Congress made a policy decision that a significant part of the blame for a growing juvenile deliquency problem was borne by inadequate methods for handling first offenders and children who had committed so-called status offenses. A status offense is a criminal offense by a juvenile which, if committed by an adult, would not be a crime.

During consideration of the Juvenile Justice and Delinquency Prevention Act of 1974, Senator Hruska cited the fact that nearly 40 percent of all juveniles incarcerated had committed no criminal act. Consequently, the 1974 act required that, as a condition of receiving formula grants, a State would be required to remove status offenders from secure detention facilities and to remove all juveniles from institutions where there is regular contact with adult offenders. In 1980, the latter was strengthened to require removal from all adult jails and lockups.

Madam Chairman, since 1974, the road to full compliance with these requirements has been a long and arduous one. While all but 12 States are now in full compliance with DSO, only 8 are in full compliance with the jail removal requirement and the deadline for full compliance is December of this year.

Despite the fact that most States have not reached full compliance, let's look at the positive side and consider where we are in comparison with 1974. First, we have been almost completely successful in DSO. From 169,000 status offenders in secure facilities in 1979, we dropped to only 6,500 in 1986—a 96-percent reduction in less than a decade. During that time period, my own State of Vermont went from 218 to 1, a reduction of over 99 percent.

With regard to jail removal, there is still a great deal to be done but the results thus far have been most impressive. Nationwide, we have dropped from 128,000 juveniles held in adult jails and lockups in the early eighties to 44,000 in 1986. Even most of those States not yet in compliance have reduced their numbers substantially. Can many other Federal programs show such dramatic success over such a short timeframe?

Moreover, let me assure my colleagues that these results are not merely coincidental to the existence of the JJDPA. My own State of Vermont recently provided a rather vivid example of the positive results engendered by the act. Vermont places a relatively small number of juveniles in adult jails, but the State's compliance with JJDPA has been impeded by a State law regarding referrals of juvenile misdemeanants. Under current State law, the district attorney has the option of referring misdemeanants aged 16 and 17 to either adult or juvenile court.

Two years ago, Vermont was informed by the Office of Juvenile Justice and Delinquency Prevention that this State law would prevent Vermont from demonstrating full compliance with the jail removal requirements.

This prompted the Vermont juvenile justice community and State legislature to take another look at the law. The result was the recent enactment of a new law which prohibits the placement of misdemeanants in adult facilities except in cases involving violence or a vulnerable victim. Vermont officials believe that this law, which was just signed last week, will bring Vermont into full compliance with the jail removal requirements of the JJDPA.

Granted, Vermont did not pass this legislation solely to avoid losing Federal dollars. But there is little doubt from the legislative history that that was one of the motivating factors. The fact is that, were it not for JJDPA, Vermont probably never would have taken a second look at its existing procedures and would not have been induced to seek a more enlightened approach. Once again, necessity is the mother of invention as has been proven countless times in the U.S. Congress as well.

Title I of this bill will ensure that such progress in Vermont and the other States will continue and will in fact be enhanced. We are trying to give the States even more of an incentive by increasing their share. My own State of Vermont will see an increase

from $225,000 to $325,000 as a result of an increase in the minimum allocation. Moreover, if funding for JJDP increases to $75 million, this minimum will increase to $400,000. These provisions are intended to ensure that the smallest states join with all other States in receiving an increase in JJDP funds.

Meanwhile, the bill will add a certain degree of needed flexibility to the jail removal requirements. This is not to be confused with leniency. We are simply making sure that, before a State can be found not to be in "substantial compliance" under section 223(c), the JJDP Administrator will consider a number of relevant factors in addition to bare statistics.

Finally, we have added needed flexibility to the sanctions available to the Administrator for noncompliance. Current law requires the Administrator to simply withhold formula grant funds from a State which fails to comply with the jail removal requirements. Such a drastic measure would make no sense in a situation where a State is making every effort to comply but simply isn't there yet. In such situations, withholding of funds would not only hurt the State, but would also hurt the youth that the statute is designed to help. To avoid such an anomaly, we would provide the Administrator with the optional sanction of requiring the State to spend all of its funds solely on jail removal.

Title II of the bill, which reauthorizes the Runaway and Homeless Youth Act [RHYA], also improves the act by focusing more funds in those areas proven most successful. The centerpiece of RHYA is the assistance provided to runaway and homeless youth centers, which provides short-term, temporary shelter to runaways. Last year, 307 local shelters were assisted, providing shelter and crisis intervention services to about 85,000 youth and one-time or drop-in services to another 255,000. Of those served, 53 percent were reunited with their families and 37 percent were placed in other positive living arrangements. The remainder either were not positively placed or there is no available information on their situation. I think my colleagues will agree this is a most impressive track record.

If there is one glaring problem in the runaway programs, it is a lack of adequate funds. There simply isn't enough to spread around to keep all of the centers going and also try to fund new centers. One particularly serious problem facing centers is attracting and retaining competent, committed employees at the low salaries caused by budget constraints. Because of the priority attached to this program, my budget-conscious Republican colleagues on the committee this year recommended a 15-percent increase in RHYA funds in our request to the Budget Committee.

Because of the obstacles to any funding increases in the near future, the bill seeks to guarantee an increase in funds for the centers even if funding remains constant. An amendment offered by Mr. SAWYER was adopted in subcommittee which requires that at least 9 percent of the funds be provided to runaway and homeless youth centers. There is no minimum required under current law and about 80 percent of the funding has been provided to centers. This increase will reduce the percentage of discretionary funds available, but it should not reflect negatively upon how those funds have been used. It is simply a decision on our part to maximum funds for those activities most central to the act's purposes at a time of severe austerity.

Meanwhile, we are ensuring the effectiveness of the program in all States by establishing a minimum allocation of $75,000.

This is our assessment of the bare minimum needed to have an effective program in any State. Some States, including my own, are currently well below this amount.

Finally, the bill reauthorizes the Missing Children's Assistance Act [MCAA] with very few changes. This is a relatively new program which authorizes support for a variety of activities designed to address the missing children problem. Examples include a toll-free hotline, a national resource center and clearinghouse, financial assistance to private, nonprofit agencies, and research on relevant topics. Since this is a relatively new program, the committee decided to retain the program essentially as is with fine-tuning changes at most.

Madam Chairman, this bill comes before the House without significant controversy. But I want to assure my colleagues that the programs it reauthorizes are replete with significance. In a year where family issues have moved to the forefront, the statistics bearing witness to the success of these programs should not escape our attention.

We still have a long way to go in addressing the many problems associated with juvenile delinquency and other maladies among our Nation's youth. But we have come so far and now is certainly not the time to abandon those efforts. I urge passage of the bill.

□ 1450

Mr. KILDEE. Madam Chairman, I yield 3 minutes to the gentleman from California [Mr. HAWKINS], the chairman of the full committee.

Mr. HAWKINS. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, I rise in strong support of the bill, H.R. 1801, the Juvenile Justice and Delinquency Prevention Amendments of 1988.

I want to commend the chairman and ranking Republican member, Mr. TAUKE of Iowa, of the Subcommittee on Human Resources, their colleagues on the subcommittee, and the subcommittee staff for their fine efforts in developing this legislation with strong bipartisan support.

H.R. 1801 reauthorizes all titles of the current act for the next 4 years. In addition to title II, Juvenile Justice and Delinquency Prevention, which provides formula grants to the States, the act also reauthorizes title III, the Runaway and Homeless Youth Act and title IV, the Missing Children's Assistance Act. The bill also strengthens and improves current law by facilitating better administration of the program, by providing for consolidation of the major discretionary programs, and by utilizing the existing resources more effectively.

Earlier this year at its reauthorization hearings, the committee received testimony from several witnesses on the disproportionately high rates of incarceration of minority youth compared to white youth who commit the same crime. I am pleased that the bill contains three amendments which address the inequitable treatment of minority youth.

In addition to the reauthorization of current programs, the act also authorizes two new programs. One of these programs provides for the establishment of transitional living projects for homeless youth aged 16 to 21.

The other new program is one that I sponsored which pertains to juvenile gang prevention and treatment programs. The intent of this new program is to provide services to prevent and reduce the participation of juveniles in gang activities in those areas which have high incidences of gang activities and of serious crimes committed by gangs. Although much attention has been focused recently on gang warfare in my own city of Los Angeles and in Washington, DC, this is by no means an isolated problem. Recent reports indicate that 46 States have problems with violence associated with gangs and illegal substances. Gang members are expanding beyond the large urban areas and establishing residence in other areas of the country generally thought to be crime free.

This new program addresses the serious problems of gang warfare and violence through intervention and prevention programs which are critical components of any comprehensive approach. I believe that this program will place additional emphasis on the prevention and treatment aspects of the act which are needed along with law enforcement activities and prosecution.

I urge my colleagues to support H.R. 1801 to reauthorize these much-needed programs to reduce and prevent delinquency among our Nation's youth.

Mr. TAUKE. Madam Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Madam Chairman, I want to commend Mr. KILDEE and Mr. TAUKE for their work in developing this legislation to reauthorize the juvenile justice and delinquency prevention, runaway and homeless youth, and missing children's assistance programs.

I would like to speak about one aspect of this legislation about which many of my colleagues may not be too familiar—Law Related Education.

Law Related Education is a national program administered by the Office of Juvenile Justice and Delinquency Prevention. This program teaches elementary and secondary students about the foundations of a democratic society and their social responsibilities as citizens. Teachers, lawyers, judges, juvenile officers, and legislators are actively working in partnership to increase understanding about the law among our young people.

When properly implemented, Law Related Education has demonstrated to be an effective delinquency and crime prevention program. A 1981 evaluation of this program by the Office of Juvenile Justice and Delinquency Prevention determined well-developed Law Related Education programs "can reduce student tendencies to resolve issues by violence, reduce dependence on delinquent peers, enhance understanding of the legal system, and develop more healthy attitudes toward the legal system."

Since 1978, Law Related Education has focused on five national projects. These projects are now primarily engaged in training and dissemination in order to reach out to more people in more States. The five projects—the Constitutional Rights Foundation, the American Bar Association Special Committee on Youth Education for Citizenship, the Center for Civic Education Law in a Free Society Project, the National Institute for Citizen Education in the Law, and the Phi Alpha Delta Law Fraternity—have been successful in implementing Law Related Education. This bill ensures that they will continue their successful tasks.

Law Related Education curriculum has been outstanding. Those who developed the curriculum and have implemented it nationwide have shown themselves to be uniquely qualified to provide the necessary training and coordination. The promise of this prevention program to help to combat the problem of drugs, gangs, violence, and delinquency is being realized.

Madam Chairman, Law Related Education deserves our continued support.

Mr. KILDEE. Madam Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Madam Chairman, I would first like to commend the chairman of the Human Resources Subcommittee, Mr. KILDEE, for the outstanding leadership he has once again demonstrated in bringing this legislation to the floor. Additionally, I would be remiss if I did not also acknowledge the contributions of the ranking minority member, Mr. TAUKE, who also deserves credit for his part in drafting this measure. The comity exhibited by these two gentlemen has resulted in a bill that will continue to benefit those touched by our juvenile justice system.

During the hearings held to review this reauthorization measure, it was unanimously noted that the Juvenile Justice Act has proven to be very beneficial and extremely cost effective. Witness after witness agreed that the legislation has given public officials the opportunity to critically review their juvenile justice practices and where necessary implement new, innovative, and successful programs. The Formula Grant Program encompassed in the bill has been the catalyst for the deinstitutionalization of thousands of improperly placed juveniles.

I am pleased that the amendments I authored, which address the issue of the disproportionate representation of minority youth in the juvenile justice system, were unanimously approved by the subcommittee and are contained in the measure we are considering today. The statistics are alarming—Hispanic juvenile males are incarcerated three to four times more than their white peers. Between 1977-83, the number of incarcerated minority youth increased 26 percent even as the number of these youths being arrested were declining.

Research indicates that even though these youth are not committing more crimes, they are more likely to be incarcerated. Furthermore, minority youth are much more likely than white youth to be incarcerated in public institutions as opposed to private facilities. I believe that the provisions contained in H.R. 1801 will help us to better understand and deal with this growing problem.

This bipartisan measure will reauthorize legislation that clearly is necessary and has proven to be successful. I urge my colleagues to join me in the support of it.

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Mr. TAUKE. Madam Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Madam Chairman, I rise in support of H.R. 1801, the Juvenile Justice and Delinquency Prevention Act Amendments.

Madam Chairman, I would like to commend my colleague, the gentleman from Michigan [Mr. KILDEE], chairman of the Subcommittee on Human Resources, and also my good friend, the gentleman from Iowa [Mr. TAUKE], for their tremendous help in getting this bill before us this afternoon after the many and seemingly interminable delays we have had getting it on the floor. They and their staffs have been most helpful in trying to address a particular concern of mine, as well as, I think, having done a very excellent job of crafting a reauthorization bill. And I want to express my appreciation for this effort.

Madam Chairman, title III of the bill contains amendments to the Missing Children's Assistance Act. Missing children is an issue which perhaps does not receive the popular attention it did a few years ago. It remains nonetheless a difficult and agonizing situation for parents and relatives of children whose whereabouts are unknown.

Several months ago I was contacted by an attorney, now a probate judge, in my district who had been retained in assisting a parent whose child had disappeared and was presumed in have been a victim of a parental kidnapping. One of the first things the attorney did in seeking to locate the whereabouts of the child was to contact the school where that child had been a student, to find out whether a request had been made for the student's records, and if so, from where. She was surprised to learn, as was I, that school records are often not even requested by a school enrolling a new student. And even where they are requested, the sending school often handles the matter as a simple administrative process, and without any link being made between law enforcement officials who may have a missing persons report, and the school which sends the records.

In reviewing this matter, it came to our attention that several States have now made that link. Most recently, my own State of Michigan has passed legislation requiring law enforcement agencies which have received a "missing person report to notify the school district where the student has been living. The school simply tags the school records, and thus when a request for those records comes to the school, law enforcement agencies can be notified. Second, the legislation now requires that schools in Michigan request a transferring student's school records, as well as a birth certificate, and failure to produce those records is also reported to local law enforcement agencies. Other States, which have more or less centralized systems for such things as birth certificates, have structured their systems slightly dif-

ferently. But all include the two elements of requiring that records be produced, and providing a link between law enforcement agencies which receive notice of missing persons and local school districts.

The bill before us does not require all States to adopt such a program, but it does require that the Administrator of Juvenile Justice Programs, through a contract or grant, provide information, and hopefully assistance and encouragement, to all States to enact and implement such a program, in line with their own State's methods of conveying and handling records, and in a way that protects the privacy of information on those records.

Mr. KILDEE. Madam Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Madam Chairman, I rise today to join my colleagues from the Education and Labor Committee in support of H.R. 1801, which reauthorizes the Juvenile Justice and Delinquency Prevention Act for 4 years.

I particularly want to thank Chairman HAWKINS and Chairman KILDEE for joining me in efforts to provide additional funds for basic services at runaway shelters authorized under title 3, the Runaway and Homeless Youth Act.

The Runaway and Homeless Youth Act complements State juvenile justice programs by authorizing grants to support runaway shelters and a national, toll-free, runaway hotline. These shelters provide various emergency and support services for troubled kids.

Before 1974, runaways and so-called throwaway children had few options, and many were forced to a life, on the run, on the streets, simply to survive. And in that setting many have been forced to acts of the most lurid kind of exploitation, simply to survive. Now, because of this act, troubled children find their way to local shelters through a variety of methods, including telephone hotlines, recommendations from other kids, referrals from community agencies, and through law enforcement officers. Because kids are frequently running away from deeply troubled, often dangerous homes, the shelters work to help them by contacting parents and appropriate support agencies and by providing individual and family counseling.

The Runaway Act could be considered a model for community-based action in the Federal Government. It defines a problem clearly. It identifies a proven remedy. And it drives funding where it can do the most good. According to the Department of Health and Human Services, in 1987 the program, with a budget of approximately $23.3 million, assisted with the operation of 307 local shelters which provided shelter and crisis intervention services to approximately 85,000 kids, and drop-in services to another quarter of a million. And that's good because even by conservative standards, shelter programs have had a 90-percent success rate in returning kids to stable, secure environments.

There is no question that runaway shelters are providing valuable services. But the real tragedy is that of the more than 1.2 million kids who run away from home each year, existing shelter programs can serve only about one-fourth. Even with their efforts to develop State and local funding bases, shelters are struggling to adequately support the operations of 24-hour crisis centers. The commmittee heard compelling testimony that many shelters are not able to keep pace with the demand as the number of troubled kids seeking services continues to increase. And there is evidence that the children coming to the shelters have multiple, and increasingly serious, problems which require intensive treatment and a wide range of services.

Shelter staff and finances are often stretched to the breaking point. To help them continue to provide these needed services to children, H.R. 1801 requires that a larger percentage of currently appropriated title 3 funds be used in direct support of local shelter services. In the past, only $4 out of $5 went to shelters. Now 9 out of 10 funding dollars will go where they will do the most good in providing direct services to kids and paving the way for additional local support. As a result, local programs in every State and territory will receive increased funds for shelter services.

Madam Chairman, the Runaway and Homeless Youth Act continues to prove highly successful. This success is best evidenced by the fact that last year 90 percent of the children who received services were either reunited with their families or placed in other positive living arrangements. This program deserves our continued attention, and I urge my colleagues to support this important legislation.

Mr. TAUKE. Madam Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Madam Chairman, I rise in strong support of H.R. 1801, the bill to reauthorize the Juvenile Justice and Delinquency Prevention Act for another 4 years. This program has served us well since its creation in 1974, expanding from time to time to meet new challenges faced by our juvenile justice system. H.R. 1801 builds on this success. Our colleagues on the Education and Labor Committee deserve to be commended for making a good thing better.

Members in this and the other body who previously served in their State legislatures, as I did in the Arizona State Senate, are enthusiastic about this bill. Unlike many Federal programs, the Juvenile Justice Act lets States make their own decisions about their juvenile justice systems instead of micromanaging them from Washington. Given this freedom of choice, the States have brought an invigorating approach to juvenile justice. Their achievements can be copied by others.

Let me give you a success story from my home State. It's called the Arizona Teachers for Law-Related Education in the Schools. ATLES is a 2-year teacher accreditation program that started this spring. It was made possible by the Law-Related Education Program, a part of the Juvenile Justice Act that helps the States establish their own delinquency prevention and treatment programs.

The goal of ATLES is to prevent crime by reaching out to Arizona's young people. With the help of the Arizona Center for Law-Related Education and the Arizona Bar Foundation, ATLES is training teachers to deliver law-related education services to the 212 school districts across the State. They are being assisted in this effort by national representatives from the Constitutional Rights Foundation, the Center for Civil Education in the Law, the American Bar Association, and the Phi Alpha Delta International Legal Fraternity.

ATLES will eventually affect thousands of Arizona youth in all 212 school districts. It would not have been possible without the Law-Related Education Program, which has enabled the State to assess its own needs and target resources accordingly.

This is only one example of what the Juvenile Justice Act does—and what it will continue to do if we pass H.R. 1801. From setting up shelters for homeless youth, to locating missing children, to helping the cities fight gang violence, the Juvenile Justice Act commands our support. It attests to what can be done when we refrain from Federal fiat and let States and private citizens show their stuff.

Mr. TAUKE. Madam Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Madam Chairman, I rise in support of the bill.

Mr. MILLER of California. Madam Chairman, I rise in support of H.R. 1801, a bill to reauthorize and strengthen the Juvenile Justice and Deliquency Prevention Act, including title III, the Runaway and Homeless Youth Act, and title IV, the Missing Children's Assistance Act.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Today, we are faced with an escalating epidemic of youth violence and drug-related gang violence, spurred on by the tragic culmination of three trends: the spread of crack cocaine; the widening gap between the rich and the poor; and the disintegration of support systems for at-risk youth and their families.

While overall juvenile crime is on the wane, falling from 2,783,459 arrests in 1975 to 1,747,675 in 1986, violent crime by youth, homicide, rape, robbery, and aggravated assault, is again on the rise, jumping 9 percent between 1984 and 1986, after a 20-percent decline in the previous decade. As the Select Committee on Children, Youth and Families, which I chair, has documented in its recent hearings, youth violence is spreading from the large urban areas of Los Angeles, Chicago, and Miami into smaller cities and communities across the Nation. Younger and younger children are commiting acts of violence, toting handguns and automatic weapons, and falling victim to drugs and the violence of their peers.

JUVENILES STILL LOCKED IN ADULT JAILS, RECEIVE FEW SERVICES

Once in the juvenile justice system, youth still fail to receive the preventive and rehabilitative services they need and many children are still confined in adult jails and lock-ups, despite the intent of the act.

Nearly one-half million juveniles are still locked in adult jails, despite a Federal mandate forbidding such placement. Of these youth, about 10 percent are held for serious offenses, 20 percent for status offenses, such as underage drinking, sexual promiscuity, or running away, and 4 percent—over 19,000 children—for no offense whatsoever.

This is particularly alarming when one considers that juveniles held in adult jails are apt to suffer physical and emotional abuse by adult inmates. Or, that they are eight times more likely to commit suicide than those held in juvenile detention centers.

The legislation before this body today will assist those States who, despite substantial progress in removing juveniles from adult jails and lockups, have yet to meet the 75-percent reduction target. Not only will it enable States to reach this goal, but it will also allow them to continue to participate in other important activities supported by the act.

For instance, the majority of delinquent youth suffer from emotional problems, have a history of child abuse or family violence, and/or are addicted to drugs or alcohol. Yet once in the system, these needs are all but ignored. Instead of treatment, all too often juvenile delinquents receive further abuse.

At the center of this act is a formula grant program which provides funds to States to improve their juvenile justice systems. By increasing the minimum amount alloted to States, H.R. 1801 will help states better meet the needs of at-risk and delinquent youth and will reaffirm our commitment to rehabilation over punishment. It is my hope that this additional funding will also stimulate the development of more prevention and early intervention programs for vulnerable youth and their families.

JUVENILE GANG PREVENTION AND TREATMENT PROGRAM

H.R. 1801 also sets up a new Juvenile Gang Prevention and Treatment Program. Testimony before the Select Committee on Children, Youth and Families at its hearing last month on "Youth and Violence" confirmed that juvenile gangs are quickly replacing the American family for hundreds of thousands of youth who feel they have nowhere else to turn for a sense of belonging and protection.

Recently, programs such as the Los Angeles "Community Gang Services" in Los Angeles, the "Chicago Intervention Network" and the Philadephia "Crisis Intervention Network," have worked to channel gang members into constructive activities. Although these programs have proven effective, severe understaffing and underfunding have precluded them from serving all of those in need. The Community Youth Gang Program, for example, employs only 50 street counselors to deal with approximately 70,000 gang members in Los Angeles.

The money provided under this new initiative will enable us to build upon these exemplary programs so that we may help a greater number of youth leave or stay out of gangs.

REDUCING MINORITY YOUTH INCARCERATION

H.R. 1801 also sets up new initiatives to reduce the disproportionately high number of minority youth who are incarcerated.

Black males, in particular, are incarcerated 3 to 4 times more frequently than are their white counterparts. Overall, the number of incarcerated minority youth rose 26 percent between 1977 and 1983, despite a concurrent decline in the number of arrests of these youths.

By voting for this legislation, we help correct the unacceptable practice of inappropriately locking up minority youth.

RUNAWAY AND HOMELESS YOUTH

H.R. 1801 also reauthorizes the Runaway and Homeless Youth Act. This act supports outreach, crisis intervention, short-term housing, and counseling to help reunite runaways, when possible, with their families.

An estimated 1.2 million youth run away each year. In California, there are as many as 25,000 runaways on any given day. Most are running from abusive homes: About 70 percent of the runaways who come to shelters have been physically or sexually abused; one study found that the reason most runaways could not go home was because of parental alcohol abuse. As many as 85 percent of runaways suffer from depression. A 1984 study of youth in NYC runaway shelters found that 25 percent had attempted suicide and another 25 percent had contemplated taking their own lives. Unfortunately, medical care, psychological counseling, and other critical services are practically nonexistent.

Not only will this bill help improve and build upon the existing shelter programs, but it will also expand the availability of these special services.

TRANSITIONAL LIVING PROGRAM

This legislation also establishes a Transitional Living Program to assist homeless youth, ages 16 to 21, prepare for independent living. I strongly support this program, which will offer residential care, interpersonal skill building, educational and job attainment counseling and services, and access to mental and physical care, as well as the services typically provided under the RHYA.

MISSING CHILDREN'S ASSISTANCE ACT

Finally, H.R. 1801 will reauthorize the Missing Children's Assistance Act, which supports research, demonstration and service programs to prevent the abducation and sexual exploitation of children. In addition, this act funds efforts to help locate and return missing children to their families.

A VOTE FOR H.R. 1801 IS A VOTE FOR YOUTH

I strongly urge my colleagues to join me in voting for H.R. 1801. This legislation is critical to the millions of American youth for whom juvenile detention centers, prisons and the streets are called home. It is equally crucial to a growing number of youth from troubled homes or communities who are at risk of following in their footsteps.

Last month, I wrote an article for the Los Angeles Times which calls for a strong investment in high risk youth. The article follows:

[From the Los Angeles Times, Apr. 10, 1988]

GIVE KIDS AN OPTION BESIDES GANG LIFE

(By George Miller)

The epidemic of gang-related violence that has resulted in the deaths of more than 50 people in Los Angeles since the beginning of the year is shocking.

Prepare for further shocks.

In South-Central Los Angeles, Washington, D.C. and other communities, armed warfare is becoming a common response to the irritations of daily life—business deals gone awry, arguments with family members, envy over a neighbor's new leather jacket or designer sunglasses.

From 1984 to 1986, the rate of violence among youth rose 9% nationwide, a reversal of the decline of the past decade. To date, we have attempted to quell this upsurge with police cracksdowns. But while police action may clear the streets for a few days, gang members brag that they easily adapt their operations and continue as before. It is obvious that law enforcement, while essential, is not the answer to youth violence. If we want to stop children from killing each other, we must address a much tougher underlying issue—the neighborhoods they call home.

It comes as no surprise that the highest incidence of crime occurs in communities where the supporting structures of school, job and family have come undone. Children growing up in our poorest neighborhoods are far more likely to fare poorly in school, become teen-age mothers, suffer chronic unemployment, and resort to crime and violence. They grow up with little investment in their future, and little evidence from their bleak environment that the future is something worth investing in. When they pull a gun and risk a jail term, they have little risk that their future is at stake.

In the past we have looked on the children of the underclass as an unfortunate anomaly within the nation's overall prosperity. That is no longer true. Today, 25% of all children under age 6 live in households in poverty. If we neglect them for their entire childhood, as we too often did their older brothers and sisters, we do so at their, and our, peril.

Rebuilding communities fractured by decades of neglect will not be easy. We must start at the most basic level, and give community institutions sustained, coherent support if they are to counteract the power of drug gangs. One of the most important components is the role that parents play. Fortunately, we know what needs to be done. Researchers testifying before the House Select Committee on Children, Youth and Families have repeatedly given us hard facts that demonstrate which programs—public and

private—effectively help children become successful, law-abiding adults:

Set up local family resource centers. Parents at risk of abusing their children or whose youngsters are involved with drugs can turn to centers for professional advice on child-rearing. In Washington, New York and Hartford, programs link distressed families with volunteer "parent mentors" from churches who provide practical help with family problems.

Keep children in school. Preschool programs have proven highly effective in guaranteeing graduation from high school, yet only 20% of the children eligible for Head Start classes can attend them. We also need to improve services to children with learning disabilities and handicaps, and link students at risk of dropping out with counselors or other caring adults.

Promote jobs in impoverished communities. We need to encourage employers to return to these areas, through tax incentives and economic development programs, as well as business-community partnerships. In Boston, the business community agreed to hire local high school graduates and provide support to teachers if the schools enforced standards of attendance and behavior.

Augment teen pregnancy prevention programs, and fund in-school day-care and job-training programs, such as the New Futures program in Albuquerque for the 400,000 teen-agers who give birth each year.

Provide drug treatment to every child and parent who needs it. The National Institute on Drug Abuse estimates that 6.5 million people suffer impairment due to drug use, yet fewer than 250,000 receive treatment at any given time. The reason is not lack of interest but lack of treatment capacity. Abusers who seek help must wait months in most major cities.

Give youths a stake in the future of the community through volunteer service programs. At a Brooklyn church, teens who need tutoring get it, and they in turn tutor younger children—and are paid for their work.

These tasks are so far-reaching that every segment of society must act if we are to succeed: Federal, state and local government, schools, churches, businesses and community organizations—and families themselves. The job will take years, it will cost money, and it will not be glamorous, but it can be done. We must start now.

Regardless of where they live, most youths aren't violent, and given a choice, they would rather not live in a world of guns, drugs and death. Teen-agers desperately want to belong, to be involved in society and feel that their actions make a difference. By failing to provide the young people of gang-plagued neighborhoods with legitimate outlets for their talents, we are squandering the energy and resourcefulness of their youth. In so doing, we not only deny them the chance to participate in the American dream, we assure that our own dreams will be diminished by the cost of their failure.

Mr. LELAND. Madam Chairman, I rise in support of H.R. 1801, the Juvenile Justice and Delinquency Prevention Act. I applaud the expedience with which the Education and Labor Committee has brought this legislation before the House and encourage my colleagues to vote for its adoption.

I am particularly pleased to note that the bill incorporates legislation I introduced earlier this year which authorizes grants and technical assistance to public and nonprofit agencies for the operation of transitional living projects for runaway and homeless youth.

Although there is already in place a network of programs which provide crisis intervention services for these youth, they are only eligible to receive this assistance for a 2-week period. The expanded program proposed in the bill before us today, would provide not only the basic necessities such as food and shelter, but counseling, interpersonal skill building, mental and physical health care, education and job training services as well. These youth would be eligible to receive this assistance for up to 540 days.

In an ideal world, adolescents live with their families until they reach adulthood and are able to venture out on their own. In the real world, however, this is not always the case. Many young people do not have access to a safe environment with relatives and have no alternative to life on the streets. In December, the U.S. Conference of Mayors issued a report on the growth of homelessness in major American cities. This study reveals that in 6 of the 26 cities examined, unaccompanied youth ranked among the leading three homeless populations. Of the 12 cities responding to a survey regarding the size of the unaccompanied youth population, nine reported that this group had grown over the past year.

The bill authorizes $5 million in fiscal year 1989 and such sums as necessary in fiscal years 1990 through 1992 for this program. I believe this authorization is a modest request for the many benefits and opportunities the participants will gain from these programs, and I hope you will join me in supporting this measure.

Mr. SAWYER. Madam Chairman, I am pleased to voice my strong support for H.R. 1801, which reauthorizes the Juvenile Justice and Delinquency Prevention Act.

Since it was first enacted in 1974, the JJDPA has authorized a full range of activities including Federal policy coordination, research, training, and the development and testing of creative approaches to prevent and treat juvenile delinquency. The centerpiece of this act is the State formula grant program, which allocates funds to the States to make improvements in their juvenile justice systems, such as the deinstitutionalization of status offenders.

H.R. 1801 strengthens the national programs as well as the State formula grant program so that the Federal Government can fulfill its leadership role in the development of effective delinquency prevention and treatment programs and in opportunities for local implementation of successful program models and training.

The Juvenile Justice and Delinquency Prevention Act also helps special emphasis programs which address serious problems such as gang activities, violence, and drug involvement among minors. One of the most effective of these initiatives is the national law-related education program. Law-related education, when properly implemented, has been demonstrated to be an effective crime prevention program. School activities including projects such as statewide high school student mock trials and street law courses are only two of the valuable services provided by law-related education professionals.

With training and coordination carried out nationally by the National Institute for Citizen Education in the Law, the American Bar Association, the Constitutional Rights Foundation, the Center for Civic Education, and Phi Alpha Delta legal fraternity international, the law-related education program should continue to be implemented in school programs and expanded into other community settings, as H.R. 1801 provides.

The law-related education curriculum has been outstanding, and those who developed it and have been implementing this valuable program nationwide have shown themselves uniquely qualified to provide the necessary training and coordination to realize the promise of this prevention program: to help address and prevent the problems of children entering the juvenile justice system.

Mr. TAUKE. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. KILDEE. Madam Chairman, I have no additional requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 1801

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 "Juvenile Justice and Delinquency Prevention Amendments of 1988".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

Sec. 101. Definitions.
Sec. 102. Establishment of Office of Juvenile Justice and Delinquency Prevention.
Sec. 103. Concentration of Federal efforts.
Sec. 104. Coordinating Council on Juvenile Justice and Delinquency Prevention.
Sec. 105. Annual reports.
Sec. 106. Authority to make grants.
Sec. 107. Allocation.
Sec. 108. State plans.
Sec. 109. National Institute for Juvenile Justice and Delinquency Prevention.
Sec. 110. Information function.
Sec. 111. Research, demonstration, and evaluation functions.
Sec. 112. Technical assistance and training functions.
Sec. 113. Technical and conforming amendments to parts B and C of title II.
Sec. 114. Special studies and reports.
Sec. 115. Authorization of appropriations.

Sec. 116. Technical amendments to part D of title II.
Sec. 117. Prevention and treatment programs relating to juvenile gangs.

TITLE II—AMENDMENTS TO THE RUNAWAY AND HOMELESS YOUTH ACT

Sec. 201. Grants for runaway and homeless youth centers.
Sec. 202. Additional technical amendments.
Sec. 203. Authorization of transitional living projects.
Sec. 204. Reports.
Sec. 205. National communication system.
Sec. 206. Grants for technical assistance and training.
Sec. 207. Grants for research, demonstration, and service projects.
Sec. 208. Annual program priorities.
Sec. 209. Coordination with activities of certain Federal health agencies.
Sec. 210. Authorization of appropriations.

TITLE III—AMENDMENTS TO THE MISSING CHILDREN'S ASSISTANCE ACT

Sec. 301. Duties and functions of Administrator.
Sec. 302. Advisory board.
Sec. 303. Grants.
Sec. 304. Authorization of appropriations.
Sec. 305. Additional technical and conforming amendments.
Sec. 306. Special study and report.

TITLE IV—MISCELLANEOUS

Sec. 401. Investigation and report by the Comptroller General.
Sec. 402. Effective date; application of amendments.

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—AMENDMENTS TO THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

SEC. 101. DEFINITIONS.

(a) DEFINITION.—Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) in paragraph (15) by striking "and" at the end,

(2) in paragraph (16) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following:

"(17) the term 'Council' means the Coordinating Council on Juvenile Justice and Delinquency Prevention established in section 206(a)(1); and

"(18) the term 'Indian tribe' means—

"(A) a federally recognized Indian tribe; or

"(B) an Alaskan Native organization.".

(b) CONFORMING AMENDMENT.—Section 206(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(1)) is amended by striking "(hereinafter referred to as the 'Council')".

SEC. 102. ESTABLISHMENT OF OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

(a) DEPUTY ADMINISTRATOR.—Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611) is amended by striking subsection (c).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 103(5) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(5)) is amended by striking "section 201(c)" and inserting "section 201(b)".

(2) Section 206(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(1)) is amended by striking "the Deputy Administrator of the Institute for Juvenile Justice and Delinquency Prevention,".

(3) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Administrator, Office of Juvenile Justice and Delinquency Prevention.".

(4) Section 5316 of title 5, United States Code, is amended by striking the item relating to the Associate Administrator, Office of Juvenile Justice and Delinquency Prevention of the Law Enforcement Assistance Administration.

SEC. 103. CONCENTRATION OF FEDERAL EFFORTS.

(a) TECHNICAL AMENDMENT.—Section 204(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(a)) is amended by striking "and the National Advisory Committee for Juvenile Justice and Delinquency Prevention".

(b) PUBLICATION OF ANNUAL PROGRAM PLAN.—Section 204(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 3614(b)) is amended—

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

"(5)(A) develop for each fiscal year, and publish annually in the Federal Register for public comment, a proposed comprehensive plan describing the particular activities which the Administrator intends to carry out under parts C and D in such fiscal year, specifying in detail those activities designed to satisfy the requirements of parts C and D; and

"(B) taking into consideration comments received during the 45-day period beginning on the date the proposed plan is published, develop and publish a final plan, before December 31 of such fiscal year, describing the particular activities which the Administrator intends to carry out under parts C and D in such fiscal year, specifying in detail those activities designed to satisfy the requirements of parts C and D; and",

(2) by striking paragraph (6), and

(3) by redesignating paragraph (7) as paragraph (6).

(c) REPORTS.—Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended—

(1) by striking subsections (c), (d), and (e),

(2) in subsection (l)—

(A) in paragraph (1)—

(i) by striking "which meets any criterion developed by the Administrator under subsection (d)(1)", and

(ii) by striking "subsection (f)" and inserting "subsection (c)", and

(B) in paragraph (2)—

(i) by striking "shall be submitted" and all that follows through "subsection (e) and", and

(ii) by striking "under subsection (e)",

(3) by redesignating subsections (f) through (l) as subsections (c) through (i), respectively, and

(4) by striking subsection (m).

SEC. 104. COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

(a) FUNCTIONS.—Section 206(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(c)) is amended—

(1) in the first sentence by striking ", in consultation with the Advisory Board on Missing Children,", and

(2) in the third sentence—

(A) by striking "is authorized to" and inserting "shall", and

(B) by striking "section 223(a)(12)(A) and (13)" and inserting "paragraphs (12)(A), (13), and (14) of section 223(a)", and

(3) by adding at the end the following: "The Council shall review the reasons why Federal agencies take juveniles into custody and shall make recommendations regarding how to improve Federal practices and facilities for holding juveniles in custody.".

(b) CONFORMING AMENDMENT.—Section 206(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(d)) is amended by striking "and" and all that follows through "title".

(c) ALLOCATION.—Section 206(g) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(g)) is amended to read as follows:

"(g) Of sums available to carry out this part, not more than $200,000 shall be available to carry out this section.".

SEC. 105. ANNUAL REPORTS.

Part A of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611-5616) is amended by adding at the end the following:

"ANNUAL REPORT

"SEC. 207. Not later than 180 days after the end of a fiscal year, the Administrator shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report that contains the following with respect to such fiscal year:

"(1) A detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, and the trends demonstrated by the data required by subparagraphs (A), (B), and (C). Such summary and analysis shall set out the information required by subparagraphs (A), (B), (C), and (D) separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

"(A) the types of offenses with which the juveniles are charged;

"(B) the race and gender of the juveniles;

"(C) the ages of the juveniles;

"(D) the types of facilities used to hold the juveniles in custody, including secure detention facilities, secure correctional facilities, jails, and lockups; and

"(E) the number of juveniles who died while in custody and the circumstances under which they died.

"(2) A description of the activities for which funds are expended under this part, including the objectives, priorities, accomplishments, and recommendations of the Council.

"(3) A description, based on the most recent data available, of the extent to which each State complies with section 223 and with the plan submitted under such section by the State for such fiscal year.

"(4) a summary of each program or activity for which assistance is provided under part C or D, an evaluation of the results of such program or activity, and a determination of the feasibility and advisability of replicating such program or activity in other locations.

"(5) A description of selected exemplary delinquency prevention programs for which assistance is provided under this title, with particular attention to community-based juvenile delinquency prevention programs that involve and assist families of juveniles.".

SEC. 106. AUTHORITY TO MAKE GRANTS.

Section 221 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631) is amended—

(1) by amending the heading to read as follows:

"AUTHORITY TO MAKE GRANTS AND CONTRACTS",

(2) by inserting "(a)" after "SEC. 221.", and

(3) by adding at the end the following:

"(b)(1) With not to exceed 2 percent of the funds available in a fiscal year to carry out this part, the Administrator shall make grants to and enter into contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local governments (and combinations thereof), and local private agencies to facilitate compliance with section 223 and implementation of the State plan approved under section 223(c).

"(2) Grants and contracts may be made under paragraph (1) only to public and private agencies, organizations, and individuals that have experience in providing such technical assistance. In providing such technical assistance, the recipient of a grant or contract under this subsection shall coordinate its activities with the State agency described in section 291(c)(1).".

SEC. 107. ALLOCATION.

(a) MINIMUM ALLOCATION.—Section 222(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632(a)) is amended—

(1) by striking "In" and inserting "(1) Subject to paragraph (2) and in",

(2) by striking the last sentence, and

(3) by adding at the end the following:

"(2)(A) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than part D) is less than $75,000,000, then the amount allotted to each State for such fiscal year shall be not less than $325,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000 each.

"(B) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than part D) equals or exceeds $75,000,000, then the amount allotted to each State for such fiscal year shall be not less than $400,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $100,000 each.

"(3) If, as a result of paragraph (2), the amount allotted to a State for a fiscal year would be less than the amount allotted to such State for fiscal year 1988, then the amounts allotted to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot to such State for the fiscal year the amount allotted to such State for fiscal year 1988.".

(b) TECHNICAL AMENDMENTS.—Section 222(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632(b)) is amended—

(1) in the first sentence by striking "Except for funds appropriated for fiscal year 1975, if" and inserting "If", and

(2) by striking the second sentence.

SEC. 108. STATE PLANS.

(a) INDIANS TRIBES.—Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)) is amended—

(1) in paragraph (5)—

(A) in the matter preceding subparagraph (A) by striking "through",

(B) in subparagraph (A)—

(i) by inserting "through" after "(A)", and

(ii) by striking "and" at the end,

(C) in subparagraph (B)—

(i) by inserting "through" after "(B), and

(ii) by inserting "and" after the semicolon,

(D) and by adding at the end the following:

"(C) to provide funds for programs of Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior) and that agree to attempt to comply with the requirements specified in paragraphs (12)(A), (13), and (14), applicable to the detention and confinement of juveniles, an amount that bears the same ratio to the aggregate amount to be expended through programs referred to in subparagraphs (A) and (B) as the population under 18 years of age in the geographical areas in which such tribes perform such functions bears to the State population under 18 years of age,", and

(2) in paragraph (8)(A)—

(A) by inserting "(including any geographical area in which an Indian tribe performs law enforcement functions)" after "relevant jurisdiction", and

(B) by inserting "(including the joining of gangs that commit crimes)" after "juvenile crime problems" each place it appears.

(b) DETENTION IN JAILS AND LOCKUPS FOR ADULTS.—Section 223(a)(14) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(14)) is amended—

(1) by striking "1989" and inserting "1993",

(2) in subparagraph (iii) by striking the period and inserting a semicolon, and

(3) by redesignating subparagraphs (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively.

(c) OVERREPRESENTATION OF JUVENILES OF MINORITY GROUPS.—Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a) is amended—

(1) in paragraph (22) by striking "and" at the end,

(2) by redesignating paragraph (23) as paragraph (24), and

(3) by inserting after paragraph (22) the following:

"(23) address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population; and".

(d) COMPLIANCE REQUIREMENT FOR ELIGIBILITY.—Section 223(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(c)) is amended—

(1) by striking "subpart" and inserting "part",

(2) by inserting "(1)" after "(c)",

(3) by striking the last sentence, and

(4) by adding at the end the following:

"(2) Failure to achieve compliance with the requirements of subsection (a)(14) within the 5-year time limitation shall terminate any State's eligibility for funding under this part unless the Administrator—

"(A) determines, in the discretion of the Administrator, that such State has—

"(i)(I) removed not less than 75 percent of juveniles from jails and lockups for adults; or

"(II) achieved substantial compliance with such subsection; and

"(ii) made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time, not to exceed 3 additional years; or

"(B) waives the termination of the State's eligibility on the condition that the State agrees to expend all of the funds to be received under this part by the State (excluding funds required to be expended to comply with subsections (c) and (d) of section 222 and with section 223(a)(5)(C)), only to achieve compliance with subsection (a)(14).

"(3) Except as provided in paragraph (2), failure to achieve compliance with the requirements of subsection (a)(14) after December 8, 1985, shall terminate any State's eligibility for funding under this part unless the Administrator waives the termination of the State's eligibility on the condition that the State agrees to expend all of the funds to be received under this part by the State (excluding funds required to be expended to comply with subsections (c) and (d) of section 222 and with section 223(a)(5)(C)), only to achieve compliance with subsection (a)(14).

"(4) For purposes of paragraph (2)(A)(i)(II), a State may demonstrate that it is in substantial compliance with such paragraphs by showing that it has—

"(A) removed all juvenile status offenders and nonoffenders from jails and lockups for adults;

"(B) made meaningful progress in removing other juveniles from jails and lockups for adults;

"(C) diligently carried out the State's plan to comply with subsection (a)(14); and

"(D) historically expended, and continues to expend, to comply with subsection (a)(14) an appropriate and significant share of the funds received by the State under this part.".

SEC. 109. NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

(a) SUPERVISION.—Section 241(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(b)) is amended by striking ", and shall" and all that follows through "section 201(c)".

(b) STATE ADVISORY GROUPS.—Section 241(f) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(f)) is amended—

(1) in paragraph (1) by striking "section 224" and inserting "section 261",

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (B), (C), (D), and (E), respectively,

(3) by inserting "(1)" after "(f)", and

(4) by striking "provide," and all that follows through "purpose of—", and inserting the following:

"provide technical and financial assistance to an eligible organization composed of member representatives of the State advisory groups appointed under section 223(a)(3) to assist such organization to carry out the functions specified in paragraph (2).

"(2) To be eligible to receive such assistance, such organization shall agree to carry out activities that include—

"(A) conducting an annual conference of such member representatives for purposes relating to the activities of such State advisory groups;".

(c) TECHNICAL AMENDMENT.—Section 241 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651) is amended by striking subsection (h).

SEC. 110. INFORMATION FUNCTION.

Section 242 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5652) is amended—

(1) by inserting "Administrator, acting through the" after "The",

(2) by striking "Prevention is authorized to" and inserting "Prevention, shall",

(3) in paragraph (1) by inserting "and" after the semicolon,

(4) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and

(5) by inserting before paragraph (2), as so redesignated, the following:

"(1) on a continuing basis, review reports, data, and standards relating to the juvenile justice system in the United States;".

SEC. 111. RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS.

Section 243 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5653) is amended—

(1) by striking "National Institute for Juvenile Justice and Delinquency Prevention" and inserting "Administrator, acting through the National Institute for Juvenile Justice and Delinquency Prevention,",

(2) in paragraph (4) by striking ", upon the request of the Deputy Administrator",

(3) in paragraph (5)—

(A) in the matter preceding subparagraph (A) by striking "and related matters" and inserting "and the improvement of the juvenile justice system",

(B) in subparagraph (A) by striking "and" at the end,

(C) in subparagraph (B) by striking "possible ameliorating roles of familial relationships" and inserting "effectiveness of family-centered treatment programs", and

(D) in subparagraph (D) by striking the period at the end and inserting a semicolon,

(4) in paragraph (6) by striking "and" at the end,

(5) in paragraph (7) by striking the period and inserting a semicolon, and

(6) by adding at the end the following:

"(8) develop and support model State legislation consistent with the mandates of this title and the standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984; and

"(9) support research relating to reducing the excessive proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups.".

SEC. 112. TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS.

Section 244 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654) is amended—

(1) by amending the heading to read as follows:

"TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS",

(2) by striking "National Institute for Juvenile Justice and Delinquency Prevention" and inserting "Administrator, acting through the National Institute for Juvenile Justice and Delinquency Prevention",

(3) by striking paragraph (3),

(4) in paragraph (2) by adding "and" at the end,

(5) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and

(6) by inserting before paragraph (2), as so redesignated, the following:

"(1) provide technical assistance and training assistance to Federal, State, and local governments and to courts, public and private agencies, institutions, and individuals in the planning, establishment, funding, operation, and evaluation of juvenile delinquency programs;".

SEC. 113. TECHNICAL AND CONFORMING AMENDMENTS TO PARTS B AND C OF TITLE II.

(a) TECHNICAL AMENDMENTS.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) in part B—

(A) by striking the heading for subpart I, and

(B) by striking subpart II, and

(2) in part C—

(A) by striking the heading for such part and inserting the following:

"PART C—NATIONAL PROGRAMS",

(B) by inserting after the heading for part C the following:

"Subpart I—National Institute for Juvenile Justice and Delinquency Prevention",

(C) by striking sections 245 and 246,

(D) in section 249—

(i) in subsection (a) by striking "section 248" and inserting "section 245",

(ii) in subsection (b) by striking "section 248(b)" and inserting "section 245(b)", and

(iii) in subsection (c) by striking "section 246" and inserting "section 245",

(E) by redesignating sections 247, 248, and 249 as sections 245, 246, and 247, respectively, and

(F) by adding at the end the following:

"Subpart II—Special Emphasis Prevention and Treatment Programs

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"SEC. 261. (a) The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals provide for each of the following during each fiscal year:

"(1) Establishing or maintaining community-based alternatives to traditional forms of institutionalization of juvenile offenders.

"(2) Establishing or implementing effective means of diverting juveniles from the traditional juvenile justice and correctional system, including restitution and reconciliation projects which test and validate selected arbitration models, such as neighborhood courts or panels, and increase victim satisfaction while providing alternatives to incarceration for detained or adjudicated delinquents.

"(3) Establishing or supporting programs stressing advocacy activities aimed at improving services to juveniles impacted by the juvenile justice system, including services which encourage the improvement of due process available to juveniles in the juvenile justice system, which improve the quality of legal representation of such juveniles, and which provide for the appointment of special advocates by courts for such juveniles.

"(4) Developing or supporting model programs to strengthen and maintain the family unit in order to prevent or treat juvenile delinquency.

"(5) Establishing or implementing special emphasis prevention and treatment programs relating to juveniles who commit serious crimes (including such crimes committed in schools), including programs designed to deter involvement in illegal activities or to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles.

"(6) Establishing or implementing further a coordinated, national law-related education program of delinquency prevention, including training programs for persons responsible for the implementation of law-related education programs in elementary and secondary schools, and other local sites.

"(7) Addressing efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population.

"(b) The Administrator is authorized, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, to develop and implement new approaches, techniques, and methods designed to—

"(1) improve the capability of public and private agencies and organizations to provide services for delinquents and other juveniles to help prevent juvenile delinquency;

"(2) develop and implement, in coordination with the Secretary of Education, model programs and methods to keep students in elementary and secondary schools, to prevent unwarranted and arbitrary suspensions and expulsions, and to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

"(3) develop, implement, and support, in conjunction with the Secretary of Labor, other public and private agencies, organizations, business, and industry, programs for the employment of juveniles;

"(4) develop and support programs designed to encourage and assist State legislatures to consider and establish policies consistent with this title, both by amending State laws, if necessary, and devoting greater resources to effectuate such policies;

"(5) develop and implement programs relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other handicapped juveniles;

"(6) develop statewide programs through the use of subsidies or other financial incentives designed to—

"(A) remove juveniles from jails and lockups for adults;

"(B) replicate juvenile programs designated as exemplary by the National Institute of Justice; or

"(C) establish and adopt, based upon the recommendations of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984, standards for the improvement of juvenile justice within each State involved; and

"(7) develop and implement model programs, relating to the special education needs of delinquent and other juveniles, which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies.

"(c) Not less than 30 percent of the funds available for grants and contracts under this section shall be available for grants to and contracts with private nonprofit agencies, organizations, and institutions which have experience in dealing with juveniles.

"(d) Assistance provided under this section shall be available on an equitable basis to deal with female, minority, and disadvantaged juveniles, including juveniles who are mentally, emotionally, or physically handicapped.

"(e) Not less than 5 percent of the funds available for grants and contracts under this section shall be available for grants and contracts designed to address the special needs and problems of juvenile delinquency in the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"CONSIDERATIONS FOR APPROVAL OF APPLICATIONS

"SEC. 262. (a) Any agency, institution, or individual desiring to receive a grant, or enter into a contract, under this part shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each application for assistance under this part shall—

"(1) set forth a program for carrying out one or more of the purposes set forth in this part and specifically identify each such purpose such program is designed to carry out;

"(2) provide that such program shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program;

"(4) provide for regular evaluation of such program;

"(5) certify that the applicant has requested the State planning agency and local agency designated in section 223, if any, to review and comment on such application and indicate the responses of such State planning agency and local agency to such request;

"(6) attach a copy of the responses of such State planning agency and local agency to such request;

"(7) provide that regular reports on such program shall be sent to the Administrator and to such State planning agency and local agency; and

"(8) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this title.

"(c) In determining whether or not to approve applications for grants and for contracts under this part, the Administrator shall consider—

"(1) the relative cost and effectiveness of the proposed program in carrying out this part;

"(2) the extent to which such program will incorporate new or innovative techniques;

"(3) if a State plan has been approved by the Administrator under section 223(c), the extent to which such program meets the objectives and priorities of the State plan, taking into consideration the location and scope of such program;

"(4) the increase in capacity of the public and private agency, institution, or individual involved to provide services to address juvenile delinquency and juvenile delinquency prevention;

"(5) the extent to which such program serves communities which have high rates of juvenile unemployment, school dropout, and delinquency; and

"(6) the adverse impact that may result from the restriction of eligibility, based upon population, for cities with a population greater than 40,000 located within States which have no city with a population over 250,000.

"(d)(1)(A) Programs selected for assistance through grants or contracts under this part (other than section 241(f)) shall be selected through a competitive process to be established by rule by the Administrator. As part of such a process, the Administrator shall announce in the Federal Register—

"(i) the availability of funds for such assistance;

"(ii) the general criteria applicable to the selection of applicants to receive such assistance; and

"(iii) a description of the procedures applicable to submitting and reviewing applications for such assistance.

"(B) The competitive process described in subparagraph (A) shall not be required if the Administrator makes a written determination that—

"(i)(I) the proposed program is not within the scope of any announcement issued, or expected to be issued, by the Administrator regarding the availability of funds to carry out programs under this part, but can be supported by a grant or contract in accordance with this part; and

"(II) such program is of such outstanding merit, as determined through peer review conducted under paragraph (2), that the award of a grant or contract without competition is justified; or

"(ii) the applicant is uniquely qualified to provide proposed training services as provided in section 244 and other qualified sources are not capable of providing such services, and includes in such determination the factual and other bases thereof.

"(C) If a program is selected for assistance without competition pursuant to the exception provided in subparagraph (B), the Administrator shall promptly so notify the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate. Such notification shall include copies of the Administrator's determination made under such subparagraph and the peer review determination required by paragraph (2).

"(2)(A) Programs selected for assistance through grants or contracts under this part (other than section 241(f)) shall be reviewed before selection, and thereafter as appropriate, through a formal peer review process utilizing experts (other than officers and employees of the Department of Justice) in fields related to the subject matter of the proposed program.

"(B) Such process shall be established by the Administrator in consultation with the Directors and other appropriate officials of the National Science Foundation and the National Institute of Mental Health. Before implementation of such process, the Administrator shall submit such process to such Directors, each of whom shall prepare and furnish to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate a final report containing their comments on such process as proposed to be established.

"(3) The Administrator, in establishing the processes required under paragraphs (1) and (2), shall provide for emergency expedited consideration of the proposed programs if necessary to avoid any delay which would preclude carrying out such programs.

"(e) A city shall not be denied assistance under this part solely on the basis of its population.

"(f) Notification of grants and contracts made under this part (and the applications submitted for such grants and contracts) shall, upon being made, be transmitted by the Administrator, to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate.".

(b) CONFORMING AMENDMENTS.—(1) Section 223(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(1)) is amended by striking "section 261(c)(1)" and inserting "section 291(c)(1)".

(2) Section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 3639), as so redesignated by section (a)(2)(E), is amended by striking "section 248" and inserting "section 245".

SEC. 114. SPECIAL STUDIES AND REPORTS.

The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) is amended by inserting after section 247, as so redesignated by section 113(a)(2)(E), the following:

"SPECIAL STUDIES AND REPORTS

"SEC. 248. (a) Not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall begin to conduct a study with respect to the juvenile justice system—

"(1) to review—

"(A) conditions in detention and correctional facilities for juveniles; and

"(B) the extent to which such facilities meet recognized national professional standards; and

"(2) to make recommendations to improve conditions in such facilities.

"(b)(1) Not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall begin to conduct a study to determine—

"(A) how juveniles who are American Indians and Alaskan Natives and who are accused of committing offenses on and near Indians reservations and Alaskan Native villages, respectively, are treated under the systems of justice administered by Indian tribes and Alaskan Native organizations, respectively, that perform law enforcement functions;

"(B) the amount of financial resources (including financial assistance provided by governmental entities) available to Indian tribes and Alaskan Native organizations that perform law enforcement functions, to support community-based alternatives to incarcerating juveniles; and

"(C) the extent to which such tribes and organizations comply with the requirements specified in paragraphs (12)(A), (13), and (14) of section 223(a), applicable to the detention and confinement of juveniles.

"(2)(A) For purposes of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)), any contract, subcontract, grant, or subgrant made under paragraph (1) shall be deemed to be a contract, subcontract, grant, or subgrant made for the benefit of Indians.

"(B) For purposes of section 7(b) of such Act and subparagraph (A) of this paragraph, references to Indians and Indian organizations shall be deemed to include Alaskan Natives and Alaskan Native organizations, respectively.

"(c) Not later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall submit a report to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate containing a description, and a summary of the re-

sults, of the study conducted under subsection (a) or (b), as the case may be.".

SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

(a) FUNDS AUTHORIZED FOR FISCAL YEARS.—Section 261(a) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)) is amended—

(1) by inserting "(1)" after "(a)",

(2) by inserting "(other than part D)" after "this title",

(3) by striking "1985, 1986, 1987, and",

(4) by inserting ", 1989, 1990, 1991, and 1992" after "1988", and

(5) by adding at the end the following:

"(2)(A) Subject to subparagraph (B), to carry out part D, there are authorized to be appropriated $10,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.

"(B) No funds may be appropriated to carry out part D of this title for a fiscal year unless the aggregate amount appropriated to carry out this title (other than part D) for such fiscal year is not less than the aggregate amount appropriated to carry out this title (other than part D) for the preceding fiscal year.".

(b) ALLOCATIONS.—Section 261(b) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(b)) is amended—

(1) by inserting "(other than part D)" after "this title",

(2) in paragraph (1) by striking "7.5 percent" and inserting "5 percent",

(3) in paragraph (2) by striking "81.5 percent" and inserting "70 percent", and

(4) in paragraph (3) by striking "11 percent" and inserting "25 percent".

SEC. 116. TECHNICAL AMENDMENTS TO PART D OF TITLE II.

Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671-5672 note) is amended—

(1) by amending the heading of such part to read as follows:

"PART E—GENERAL AND ADMINISTRATIVE PROVISIONS",

(2) by striking section 263,

(3) by redesignating sections 261 and 262 as

sections 291 and 292, respectively, and

(4) by adding at the end the following:

"WITHHOLDING

"SEC. 293. Whenever the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds that—

"(1) the program or activity for which the grant or contract involved was made has been so changed that it no longer complies with this title; or

"(2) in the operation of such program or activity there is failure to comply substantially with any provision of this title;

the Administrator shall initiate such proceedings as are appropriate.

"USE OF FUNDS

"SEC. 294. (a) Funds paid pursuant to this title to any public or private agency, organization, or institution, or to any individual (either directly or through a State planning agency) may be used for—

"(1) planning, developing, or operating the program designed to carry out this title; and

"(2) not more than 50 per centum of the cost of the construction of any innovative community-based facility for fewer than 20 persons which, in the judgment of the Administrator, is necessary to carry out this title.

"(b) Except as provided in subsection (a), no funds paid to any public or private agency, or institution or to any individual under this title (either directly or through a State agency or local agency) may be used for construction.

"(c)(1) Funds paid pursuant to section 223(a)(10)(D) and section 261(a)(3) to any public or private agency, organization, or institution or to any individual shall not be used to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills, resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body, except that this paragraph shall not preclude such funds from being used in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved.

"(2) The Administrator shall take such action as may be necessary to ensure that no funds paid under section 223(a)(10)(D) or section 261(a)(3) are used either directly or indirectly in any manner prohibited in this paragraph.

"PAYMENTS

"SEC. 295. (a) Payments under this title, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Administrator may determine.

"(b) Except as provided in the second sentence of section 222(c), financial assistance extended under this title shall be 100 per centum of the approved costs of the program or activity involved.

"(c)(1) In the case of a grant under this title to an Indian tribe, if the Administrator determines that the tribe does not have sufficient funds available to meet the local share of the cost of any program or activity to to be funded under the grant, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary.

"(2) If a State does not have an adequate forum to enforce grant provisions imposing any liability on Indian tribes, the Administrator may waive State liability attributable to the liability of such tribes and may pursue such legal remedies as are necessary.

"(d) If the Administrator determines, on the basis of information available to the Administrator during any fiscal year, that a portion of the funds granted to an applicant under part C for such fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 802 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended from time to time, that portion shall be available for reallocation in an equitable manner to States which comply with the requirements in paragraphs (12)(A) and (13) of section 223(a), under section 261(b)(6).

"CONFIDENTIALITY OF PROGRAM RECORDS

"SEC. 296. Except as authorized by law, program records containing the identity of individual juveniles gathered for purposes pursuant to this title may not be disclosed without the consent of the service recipient or legally authorized representative, or as may be necessary to carry out this title. Under no circumstances may program reports or findings available for public dissemination contain the actual names of individual service recipients.".

SEC. 117. PREVENTION AND TREATMENT PROGRAMS RELATING TO JUVENILE GANGS.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671-5672 note) is amended by inserting after part C, as amended by this title, the following:

"PART D—PREVENTION AND TREATMENT PROGRAMS RELATING TO JUVENILE GANGS

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"SEC. 281. The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, establish and support programs and activities that involve families and communities and that are designed to carry out any of the following purposes:

"(1) To prevent and to reduce the participation of juveniles in the activities of gangs that commit crimes.

"(2) To promote the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes.

"(3) To provide treatment to juveniles who are members of such gangs and who are accused of committing a serious crime, including treatment following the adjudication of such juveniles of being delinquent.

"(4) To expand the availability of prevention and treatment services relating to the illegal use of controlled substances and controlled substance analogues (as defined in paragraphs (6) and (32) of section 102 of the Controlled Substances Act) by juveniles, provided through State and local health and social service agencies.

"(5) To support activities to inform juveniles of the availability of treatment and services for which financial assistance is provided under this part.

"(6) To facilitate Federal and State cooperation with local school officials to identify and assist juveniles who are likely to participate in the activities of gangs that commit crimes.

"(7) To establish and support programs that facilitate coordination and cooperation among local education, juvenile justice, employment, and social service agencies, for the purpose of preventing or reducing the participation of juveniles in activities of gangs that commit crimes.

"APPROVAL OF APPLICATIONS

"SEC. 282. (a) Any agency, institution, or individual desiring to receive a grant, or to enter into a contract, under this part shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each application for assistance under this part shall—

"(1) set forth a program or activity for carrying out one or more of the purposes specified in section 281 and specifically identify each such purpose such program or activity is designed to carry out;

"(2) provide that such program or activity shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program or activity;

"(4) provide for regular evaluation of such program or activity;

"(5) certify that the applicant has requested the State planning agency and local agency designated in section 223, if any, to review and comment on such application and indicate the responses of such State planning agency and local agency to such request;

"(6) attach a copy of the responses of such State planning agency and local agency to such request;

"(7) provide that regular reports on such program or activity shall be sent to the Administrator and to such State planning agency and local agency; and

"(8) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this title.

"(c) In reviewing applications for grants and contracts under this part, the Administrator shall give priority to applications—

"(1) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles, in the geographical area in which the applicants propose to carry out the programs and activities for which such grants and contracts are requested; and

"(2) for assistance for programs and activities that have the broad support of organizations operating in such geographical areas, as demonstrated by the applicants.".

The CHAIRMAN. Are there any amendments to title I.

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—AMENDMENTS TO THE RUNAWAY AND HOMELESS YOUTH ACT

SEC. 201. GRANTS FOR RUNAWAY AND HOMELESS YOUTH CENTERS.

(a) TECHNICAL AMENDMENT.—The heading for section 311 of the Runaway and Homeless Youth Act (42 U.S.C. 5711) is amended to read as follows:

"AUTHORITY TO MAKE GRANTS".

(b) GRANT PROGRAM.—Subsections (a) and (b) of section 311 of the Runaway and Homeless Youth Act (42 U.S.C. 5711) are amended to read as follows:

"(a) The Secretary shall make grants to public and private entities (and combinations of such entities) to establish and operate (including renovation) local runaway and homeless youth centers to provide services to deal primarily with the immediate needs of runaway or otherwise homeless youth, and their families, in a manner which is outside the law enforcement structure and the juvenile justice system.

"(b)(1) Subject to paragraph (2) and in accordance with regulations promulgated under this title, funds for grants under subsection (a) shall be allotted annually with respect to the States on the basis of their relative population of individuals who are less than 18 years of age.

"(2) Subject to paragraph (3), the amount allotted under paragraph (1) with respect to each State for a fiscal year shall be not less than $75,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $30,000 each.

"(3) If, as a result of paragraph (2), the amount allotted under paragraph (1) with respect to a State for a fiscal year would be less than the aggregate amount of grants made under this part to recipients in such State for fiscal year 1988, then the amounts allotted to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot under paragraph (1) with respect to such State for the fiscal year an amount equal to the aggregate amount of grants made under this part to recipients in such State for fiscal year 1988.

"(4) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to private entities that have experience in providing the services described in such subsection.".

(c) CONFORMING AMENDMENTS.—(1) Sections 312 and 313 of the Runaway and Homeless Youth Act (42 U.S.C. 5712, 5713) are each amended by striking "this part" each place it appears and inserting "section 311(a)".

(2) Section 312(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5712(a)) is amended by inserting "and homeless youth" after "proposed runaway".

(3) Section 312(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5712(b)) is amended—

(A) in the matter preceding paragraph (1) by striking "meeting" and all that follows through "center—", and inserting "including assurances that the applicant—",

(B) in paragraph (1)—

(i) by striking "shall be" and inserting "shall operate a runaway and homeless youth center", and

(ii) by inserting "and homeless" after "by runaway", and

(C) in paragraphs (3) and (5) by striking "runaway center" each place it appears and inserting "runaway and homeless youth center",

(D) in paragraphs (4) and (6) by striking "runaway youths" each place it appears and inserting "runaway and homeless youth", and

(E) in paragraphs (5) and (6) by striking "runaway youth" each place it appears and inserting "runaway and homeless youth".

(4) Section 314 of the Runaway and Homeless Youth Act (42 U.S.C. 5714) is amended by striking "runaway center" and inserting "runaway and homeless youth center".

(5) Section 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5715) is amended—

(A) by striking "runaway centers" and inserting "runaway and homeless youth centers", and

(B) by striking "runaway youth" and inserting "runaway and homeless youth".

(6) Section 318(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5716(a)) is amended by striking "acquisition and".

SEC. 202. ADDITIONAL TECHNICAL AMENDMENTS.

The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended—

(1) by amending the heading for part A to read as follows:

"PART A—RUNAWAY AND HOMELESS YOUTH GRANT PROGRAM",

(2) by striking the headings for parts B and C, and

(3) by inserting before the heading for section 317 the following:

"PART D—ADMINISTRATIVE PROVISIONS".

SEC. 203. AUTHORIZATION OF TRANSITIONAL LIVING PROJECTS.

(a) ASSISTANCE TO POTENTIAL GRANTEES.—Section 315 of the Runaway and Homeless Youth Act (42 U.S.C. 5714a) is amended—

(1) by inserting "and transitional living youth projects" after "homeless youth centers",

(2) in paragraph (1) by inserting "or transitional living youth project" after "homeless youth center",

(3) by inserting "or such project" after "such center" each place it appears, and

(4) in paragraph (3) by inserting "and homeless" after "runaway".

(b) LEASE OF SURPLUS FEDERAL FACILITIES.—Section 316 of the Runaway and Homeless Youth Act (42 U.S.C. 5714b) is amended—

(1) in the heading of such section by inserting "OR AS TRANSITIONAL LIVING YOUTH SHELTER FACILITIES" after "HOMELESS YOUTH CENTERS", and

(2) in subsection (a)—

(A) by inserting "or as transitional living youth shelter facilities" after "homeless youth centers", and

(B) in paragraph (1) by inserting "or transitional living youth project, as the case may be, under this title" after "homeless youth center".

(c) REPORTS.—Section 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5715) is amended—

(1) by inserting "(a)" after "SEC. 317.",

(2) by striking "this part" and inserting "part A", and

(3) by adding at the end thereof the following:

"(b) The Secretary shall annually report to the Congress on the status and accomplishments of the transitional living youth projects which are funded under part B, with particular attention to—

"(1) the number and characteristics of homeless youth served by such projects;

"(2) describing the types of activities carried out under such projects;

"(3) the effectiveness of such projects in alleviating the immediate problems of homeless youth;

"(4) the effectiveness of such projects in preparing homeless youth for self sufficiency;

"(5) the effectiveness of such projects in helping youth decide upon future education, employment, and independent living; and

"(6) the ability of such projects to strengthen family relationships, and encourage the resolution of intra-family problems through counseling and the development of self-sufficient living skills.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 331 of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(2) by inserting after subsection (a) the following:

"(b)(1) Subject to paragraph (2), to carry out the purposes of part B of this title, there are authorized to be appropriated $5,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.

"(2) No funds may be appropriated to carry out part B of this title for a fiscal year unless the aggregate amount appropriated for such fiscal year to carry out part A of this title exceeds $28,000,000.".

(e) TECHNICAL AMENDMENTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended—

(1) by inserting before the heading for section 315 the following:

"PART C—GENERAL PROVISIONS", and

(2) by redesignating sections 315, 316, 317, 318, 321, and 331 as sections 341, 342, 361, 362, 363, and 366, respectively.

(f) GRANTS FOR TRANSITIONAL LIVING YOUTH PROJECTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting after section 314 the following:

"PART B—TRANSITIONAL LIVING GRANT PROGRAM

"PURPOSE AND AUTHORITY FOR PROGRAM

"SEC. 321. (a) The Secretary is authorized to make grants and to provide technical assistance to public and nonprofit private entities to establish and operate transitional living youth projects for homeless youth.

"(b) For purposes of this part—

"(1) the term 'homeless youth' means any individual—

"(A) who is not less than 16 years of age and not more than 21 years of age;

"(B) for whom it is not possible to live in a safe environment with a relative; and

"(C) who has no other safe alternative living arrangement; and

"(2) the term 'transitional living youth project' means a project that provides shelter and services designed to promote a transition to self-sufficient living and to prevent long-term dependency on social services.

"ELIGIBILITY

"SEC. 322. (a) To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund a transitional living youth project for homeless youth and shall submit to the Secretary a plan in which such applicant agrees, as part of such project—

"(1) to provide, directly or indirectly, shelter (such as group homes, host family homes, and supervised apartments) and services (including information and counseling services in basic life skills, interpersonal skill building, educational advancement, job attainment skills, and mental and physical health care) to homeless youth;

"(2) to provide such shelter and such services to individual homeless youth throughout a continuous period not to exceed 540 days;

"(3) to provide, directly or indirectly, on-site supervision at each shelter facility that is not a family home;

"(4) that such shelter facility used to carry out such project shall have the capacity to accommodate not more than 20 individuals (excluding staff);

"(5) to provide a number of staff sufficient to ensure that all homeless youth participating in such project receive adequate supervision and services;

"(6) to develop adequate plans for assisting such homeless youth to make the transition from supervised participation in such project to independent living or another appropriate living arrangement;

"(7) to develop an adequate plan to ensure proper referral of homeless youth to social service, law enforcement, educational, vocational, training, welfare, legal service, and health care programs;

"(8) to develop an adequate plan of activities designed to advertise to homeless youth the availability of services under this part;

"(9) to submit to the Secretary an annual report that includes information regarding the achievements of the project under this part carried out by the applicant and statistical summaries describing the characteristics of homeless youth who participate in such project in the year for which the report is submitted;

"(10) to implement such accounting procedures and fiscal control devices as the Secretary may require;

"(11) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under this part;

"(12) to keep adequate statistical records profiling homeless youth which it serves and not to disclose the identity of individual homeless youth in reports or other documents based on such statistical records;

"(13) not to disclose records maintained on individual homeless youth without the consent of the individual youth and parent or legal guardian to anyone other than an agency compiling statistical records or a government agency involved in the disposition of criminal charges against youth; and

"(14) to provide to the Secretary such other information as the Secretary may reasonably require.

"(b) In selecting eligible applicants to receive grants under this part, the Secretary shall give priority to entities that have experience in providing to homeless youth shelter and services of the types described in subsection (a)(1).".

SEC. 204. REPORTS.

Section 361 of the Runaway and Homeless Youth Act (42 U.S.C. 5715), as so redesignated by section 203(e)(2), is amended by striking "The Secretary shall annually" and inserting "Not later than 180 days after the end of each fiscal year, the Secretary shall".

SEC. 205. NATIONAL COMMUNICATION SYSTEM.

(a) TECHNICAL AMENDMENTS.—Sections 313 and 314 of the Runaway and Homeless Youth Act (42 U.S.C. 5713-5714) are redesignated as sections 316 and 317, respectively.

(b) AUTHORITY TO MAKE GRANTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting after section 312 the following:

"GRANTS FOR A NATIONAL COMMUNICATION SYSTEM

"SEC. 313. (a) With funds reserved under subsection (b), the Secretary shall make grants for a national communication system to assist runaway and homeless youth in communicating with their families and with service providers.

"(b) From funds appropriated to carry out this part and after making the allocation required by section 366(a)(2), the Secretary shall reserve—

"(1) for fiscal year 1989 not less than $500,000;

"(2) for fiscal year 1990 not less than $600,000; and

"(3) for each of the fiscal years 1991 and 1992 not less than $750,000;

to carry out subsection (a).".

SEC. 206. GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING.

The Runaway and Homeless Youth (42 U.S.C. 5701-5751) is amended by inserting after section 313, as added by section 205, the following:

"GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING

"SEC. 314. The Secretary may make grants to statewide and regional nonprofit organizations (and combinations of such organizations) to provide technical assistance and training to public and private entities (and combinations of such entities) that are eligible to receive grants under section 311(a), for the purpose of assisting such entities to establish and operate runaway and homeless youth centers.".

SEC. 207. GRANTS FOR RESEARCH, DEMONSTRATION, AND SERVICE PROJECTS.

The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting after section 314, as added by section 206, the following:

"AUTHORITY TO MAKE GRANTS FOR RESEARCH, DEMONSTRATION, AND SERVICE PROJECTS

"SEC. 315. (a) The Secretary may make grants to States, localities, and private entities (and combinations of such entities) to carry out research, demonstration, and service projects designed to increase knowledge concerning, and to improve services for, runaway and homeless youth.

"(b) In selecting among applications for grants under subsection (a), the Secretary shall give special consideration to proposed projects relating to—

"(1) juveniles who repeatedly leave and remain away from their homes;

"(2) outreach to runaway and homeless youth;

"(3) transportation of runaway and homeless youth in connection with services authorized to be provided under this part;

"(4) the special needs of runaway and homeless youth programs in rural areas;

"(5) the special needs of foster care home programs for runaway and homeless youth;

"(6) transitional living programs for runaway and homeless youth; and

"(7) innovative methods of developing resources that enhance the establishment or operation of runaway and homeless youth centers.

"(c) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to applicants who provide services directly to runaway and homeless youth.".

SEC. 208. ANNUAL PROGRAM PRIORITIES.

The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting after section 363, as so redesignated by section 203(e)(2), the following:

"ANNUAL PROGRAM PRIORITIES

"SEC. 364. (a) The Secretary shall develop for each fiscal year, and publish annually in the Federal Register for public comment a proposed plan specifying the subject priorities the Secretary will follow in making grants under this title for such fiscal year.

"(b) Taking into consideration comments received in the 45-day period beginning on the date the proposed plan is published, the Secretary shall develop and publish, before December 31 of such fiscal year, a final plan specifying the priorities referred to in subsection (a).".

SEC. 209. COORDINATION WITH ACTIVITIES OF CERTAIN FEDERAL HEALTH AGENCIES.

The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting after section 364, as added by section 208, the following:

"COORDINATION WITH ACTIVITIES

"SEC. 365. With respect to matters relating to communicable diseases, the Secretary shall coordinate the activities of health agencies in the Department of Health and Human Services with the activities of the entities that are eligible to receive grants under this title.".

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

Section 366(a) of the Runaway and Homeless Youth Act of 1974 (42 U.S.C. 5751(a)), as so redesignated by section 203(d)(2), is amended—

(1) by striking "1985, 1986, 1987, and",

(2) by inserting ", 1989, 1990, 1991, and 1992" after "1988",

(3) by inserting "(1)" after "(a)", and

(4) by adding at the end the following:

"(2) Not less than 90 percent of the funds appropriated under paragraph (1) for a fiscal year shall be available to carry out section 311(a) in such fiscal year.".

The CHAIRMAN. Are there any amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—AMENDMENTS TO THE MISSING CHILDREN'S ASSISTANCE ACT

SEC. 301. DUTIES AND FUNCTIONS OF ADMINISTRATOR.

(a) ANNUAL REPORT.—Section 404(a) of the Missing Children's Assistance Act (42 U.S.C. 5773(a)) is amended—

(1) in paragraph (3) by striking "law enforcement",

(2) in paragraph (4) by inserting "and" at the end,

(3) by amending paragraph (5) to read as follows:

"(5) not later than 180 days after the end of each fiscal year, submit a report to the President, Speaker of the House of Representatives, and the President pro tempore of the Senate—

"(A) containing a comprehensive plan for facilitating cooperation and coordination in the succeeding fiscal year among all agencies and organizations with responsibilities related to missing children;

"(B) identifying and summarizing effective models of Federal, State, and local coordination and cooperation in locating and recovering missing children;

"(C) identifying and summarizing effective program models that provide treatment, counseling, or other aid to parents of missing children or to children who have been the victims of abduction,

"(D) describing how the Administrator satisfied the requirements of paragraph (4) in the preceding fiscal year;

"(E) describing in detail the number and types of telephone calls received in the preceding fiscal year over the national toll-free telephone line established under subsection (b)(1)(A) and the number and types of communications referred to the national communications system established under section 313;

"(F) describing in detail the activities in the preceding fiscal year of the national resource center and clearinghouse established under subsection (b)(2);

"(G) describing all the programs for which assistance was provided under section 405 in the preceding fiscal year; and

"(H) summarizing the results of all research completed in the preceding year for which assistance was provided at any time under this title.", and

(4) by striking paragraph (6).

(b) Section 404(b) of the Missing Children's Assistance Act (42 U.S.C. 5773(b)) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)",

(B) by inserting "24-hour" after "national",

(C) by adding "and" after the semicolon, and

(D) by adding at the end the following:

"(B) coordinating the operation of such telephone line with the operation of the national communications system established under section 313;",

(2) in paragraph (2)—

(A) by amending subparagraph (A) to read as follows:

"(A) provide to State and local governments, public and private nonprofit agencies, and individuals information regarding—

"(i) free or low-cost legal, restaurant, lodging, and transportation services that are available for the benefit of missing children and their families; and

"(ii) the existence and nature of programs being carried out by Federal agencies to assist missing children and their families;", and

(B) in subparagraph (D) by striking the semicolon and inserting the following: "and in locating and recovering missing children;",

(3) in paragraph (3) by striking the period at the end and inserting "; and", and

(4) by adding at the end the following:

"(4) provide to State and local governments, public and private nonprofit agencies, and individuals information to facilitate the lawful use of school records and birth certificates to identify and locate missing children.".

SEC. 302. ADVISORY BOARD.

Section 405 of the Missing Children's Assistance Act (42 U.S.C. 5774) is repealed.

SEC. 303. GRANTS.

Section 406(a) of the Missing Children's Assistance Act (42 U.S.C. 5775(a)) is amended—

(1) in paragraph (5) by striking "and" at the end,

(2) in paragraph (6) by striking the period and inserting a semicolon, and

(3) by adding at the end the following:

"(7) to address the needs of missing children (as defined in section 403(1)(A)) and their families following the recovery of such children; and

"(8) to reduce the likelihood that individuals under 18 years of age will be removed from the control of such individuals' legal custodians without such custodians' consent.".

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

Section 408 of the Missing Children's Assistance Act (42 U.S.C. 5777) is amended—

(1) by striking "$10,000,000 for fiscal year 1985, and"

(2) by striking "1986, 1987, and", and

(3) by inserting ", 1989, 1990, 1991, and 1992" after "1988".

SEC. 305. ADDITIONAL TECHNICAL AND CONFORMING AMENDMENTS.

(a) TECHNICAL AMENDMENT.—Sections 406, 407, and 408 are redesignated as sections 405, 406, and 407, respectively.

(b) CONFORMING AMENDMENT.—Section 406 of the Missing Children's Assistance Act, as so redesignated by subsection (a), is amended by striking "section 406" and inserting "section 405".

SEC. 306. SPECIAL STUDY AND REPORT.

The Missing Children's Assistance Act (42 U.S.C. 5771-5777) is amended by adding at the end the following:

"SPECIAL STUDY AND REPORT

"SEC. 408. (a) Not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall begin to conduct a study to determine the obstacles that prevent or impede individuals who have legal custody of children from recovering such children from parents who have removed such children from such individuals in violation of law.

"(b) Not later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Secretary shall submit a report to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate containing a description, and a summary of the results, of the study conducted under subsection (a).".

AMENDMENT OFFERED BY MR. LEWIS OF FLORIDA

Mr. LEWIS of Florida. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEWIS of Florida:

Page 61, line 3, strike "and" at the end.

Page 61, beginning on line 6, strike "title" and all that follows through line 7, and insert "title; and".

Page 61, after line 6, insert the following:

"(I)(i) identifying each clearinghouse with respect to which assistance is provided under section 405(a)(9) in the preceding fiscal year;

"(ii) describing the activities carried out by such clearinghouse in such fiscal year;

"(iii) specifying the types and amounts of assistance (other than assistance under section 405(a)(9)) received by such clearinghouse in such fiscal year; and

"(iv) specifying the number and types of missing children cases handled (and the number of such cases resolved) by such clearinghouse in such fiscal year and summarizing the circumstances of each such case.", and

Page 63, line 8, strike "and" at the end.

Page 63, line 12, strike "consent" and all that follows through the period at the end, and insert "consent; and".

Page 63, after line 12, insert the following:

"(9) to establish or operate statewide clearinghouses to assist in locating and recovering missing children.".

Mr. LEWIS of Florida. Madam Chairman, I can think of no more tragic commentary on our great Nation than its high number of runaway and abducted children. I rise today to introduce an amendment to the Juvenile Justice and Delinquency Prevention Act—that simply clarifies current law to give the Administrator of the Office of Juvenile Justice and Delinquency Prevention—the authority to establish and operate state-wide clearinghouses to assist in locating and recovering missing children.

My home State of Florida is a leader in the nationwide effort to locate missing children. In 1982 on a shoestring budget the Florida Department of Law Enforcement established an in-state missing children information clearinghouse. Such clearinghouses are currently located in 39 States. While this is the majority of States, 11 still do not have a statewide automated mechanism for responding to cases of missing children. I firmly believe that encouraging States to establish missing children clearinghouses and assisting existing clearinghouses is the only answer to his devastating problem.

An information clearinghouse in every State would provide parents and local police with an invaluable resource, a telecommunication system that would allow information on missing children to be passed almost instantaneously throughout the Nation.

Madam Chairman, the amendment I offer today simply establishes a permanent record in the Juvenile Justice and Delinquency Act that makes known that State clearinghouses are essential to enhance the efforts in locating missing and abducted children and gives the Administrator of the National Center the authority to provide assistance to them.

For the future health and well-being of our country, but most of all for our kids, I urge all my colleagues to join with me in support of this amendment.

I recently polled various State clearinghouses to secure information regarding the impact they have in the education of parents and the location of children and to determine the effect that Federal funds have on them. It was a general consensus that State clearinghouses under the auspices of State law enforcement agencies are a vital key to locating missing and abducted children. Evidence clearly indicates clearinghouses should be implemented in all States if we are to combat this tragic problem.

The concept of statewide clearinghouses has received endorsements from the National Sheriff's Association, the International Association of Chiefs of Police, the American Academy of Pediatrics, the American Federation of Police to name a few.

It is their opinion that since State and local agencies are closest to the problem and the community it is imperative that they are well trained and equipped to serve as an effective frontline resource in the effort to locate and protect children. A coordinated effort is as important, if not more important, on a statewide level as it is on the national level.

After all when a parent loses a child, whether it be an abduction or a runaway, the first person that parent will contact is a local law enforcement official. Once the child is reported missing the first 24-hours is critical. Therefore it is vital that these local law enforcement officers have ready access to information files that will provide key statistics on a missing child and access to a system that will alert law enforcement agencies.

An information clearinghouse in every state would provide parents and local police with an invaluable resource, a telecommunication system that would allow information on missing children to be passed almost instantaneously throughout the nation.

Madam Chairman, the amendment I offer today simply establishes a permanent record in the Juvenile Justice and Delinquency Act that makes known that state clearinghouse are essential to enhance the efforts in locating missing and abducted children, and gives the Administrator the authority to provide assistance to them.

For the future health and well-being of our country, but most of all for our kids, I urge all my colleagues to join with me in support of this amendment.

□ 1515

Mr. KILDEE. Madam Chairman, I move to strike the last word and I rise in strong support of the Lewis of Florida amendment.

Madam Chairman, the Lewis amendment clarifies that assistance to support State clearinghouses to locate and recover missing children is an eligible activity. Further, the amendment supplements the Administrator's reporting requirements to insure that the Congress annually receives information on the funding and activities of those State clearinghouses receiving assistance under the act.

Madam Chairman, I would like to compliment the gentleman from Florida [Mr. LEWIS] for his tenacious support for State clearinghouses. He is an expert on this and very persistent.

He was the first Member of Congress to introduce legislation on this subject and I strongly believe, Madam Chairman, that there are now clearinghouses in most of the States due in large part to his efforts to keep this issue before the Congress and the administration.

Mr. TAUKE. Madam Chairman, will the gentleman yield?

Mr. KILDEE. I am happy to yield to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. I thank the gentleman for yielding.

Madam Chairman, I want to join with the gentleman from Michigan in commending our colleague from Florida for his leadership in this area. All of us, I think, are struck every time we hear another story of a missing child. In our own subcommittee hearings, we have had some stories which have certainly pulled at the heartstrings. I think all Members of Congress are committed to doing what we can to address this issue. But Mr. LEWIS has gone beyond just that normal commitment and has, on an ongoing basis, been at us and other Members of Congress to insure that this issue is addressed.

Madam Chairman, I am pleased that we are able to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. LEWIS].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—MISCELLANEOUS

SEC. 401. INVESTIGATION AND REPORT BY THE COMPTROLLER GENERAL.

(a) INVESTIGATION.—Not later than 180 days after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Comptroller General of the United States shall begin to conduct an investigation of the extent to which—

(1) valid court orders, and

(2) court orders other than valid court orders,

are used in the 5-year period ending on December 31, 1988, to place juveniles in secure detention facilities, in secure correctional facilities, and in jails and lockups for adults.

(b) REPORT.—(1) Not later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Comptroller General shall submit a report to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate containing a description, and a summary of the results, of the investigation conducted under subsection (a).

(2) In such report, the Comptroller shall specify separately with respect to secure detention facilities, secure correctional facilities, and jails and lockups for adults—

(1) the frequency with which juveniles were confined,

(2) the length of confinement of juveniles, and

(3) the types of conduct of juveniles for which confinement was imposed,

as a result of the enforcement of court orders of the 2 types described in paragraphs (1) and (2) of subsection (a).

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

(1) the term "juvenile" means an individual who is less than 18 years of age,

(2) the term "secure correctional facility" has the meaning given it in section 103(13) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(13)),

(3) the term "secure detention facility" has the meaning given it in section 103(12) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(12)), and

(4) the term "valid court order" has the meaning given it in section 103(16) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(16)).

SEC. 402. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendment made by section 108(a) shall not apply to a State with respect to a fiscal year beginning before the date of the enactment of this Act if the State plan is approved before such date by the Administrator for such fiscal year.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Madam Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. WALKER: On page 67, after line 9, add the following new section:

SEC. 403. DRUG FREE WORKPLACE.

(a) GRANTS.—No person or organization shall receive a grant authorized under this Act unless such person or organization has certified to the granting agency that it will provide a drug-free workplace by:

(1) publishing a statement of policy prohibiting the unlawful manufacture, distribution, dispensation, or possession of a controlled substance while in the workplace; and

(2) requiring that each employee, as a condition of employment, certify that he or she has received a copy of such statement of policy and understands its contents, and that he will abide by such a policy. Such employee shall further agree as a condition of employment to notify the employer of any conviction no later than the employee's next working day after such conviction. The

employer shall notify the granting or contracting agency within 72 hours of notification to it by the employee.

(b) CONTRACTS.—No person or organization shall be considered a responsible source, under the meaning of such term as defined in section 4(8) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(8)), for the purposes of being awarded a contract for the procurement of any property or services authorized under this Act unless such person or organization has certified to the contracting agency that it will provide a drug free workplace by—

(1) publishing a statement of policy prohibiting the unlawful manufacture, distribution, dispensation, or possession of a controlled substance while in the workplace; and

(2) requiring that each employee, as a condition of employment, certify that he or she has received a copy of such statement of policy and understands its contents, and that he will abide by such a policy. Such employee shall further agree as a condition of employment to notify the employer of any conviction no later than the employee's next working day after such conviction. The employer shall notify the granting or contracting agency within 72 hours of notification to it by the employee.

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

(1) the term "drug-free workplace" is defined as a place where work is performed in connection with a specific grant or contract described in subsections (a) and (b) of an entity at which no employee of such entity unlawfully manufactures, distributes, dispenses, or possesses a controlled substance;

(2) the term "employee" is defined as the employee of a contractor or grantee engaged in the performance of work pursuant to the provisions of the contract or grant described in subsections (a) and (b);

(3) the term "controlled substance" is defined as a controlled substance in schedule I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812); and

(4) the term "conviction" is defined as a finding of guilt and/or imposition of sentence by any judicial body charged with the responsibility to determine violations of the Federal, state (or governmental subdivisions thereof) criminal statutes described in subsection (d).

(d) WITHHOLDING OF PAYMENTS.—

(1) Each contract and grant authorized pursuant to this Act shall contain a provision through which the granting or contracting agency shall withhold subsequent payments due under the terms and conditions of the grant or contract under applicable law upon the occurrence of conviction of an employee for violation of a Federal, state (or governmental subdivision thereof) criminal statute involving manufacture, distribution, dispensation, or possession of any controlled substance, for a violation occurring in the workplace.

(2) Notice of the granting or contracting agency's intent to withhold payments shall be given to the grantee or contractor by certified U.S. mail, return receipt requested, at the grantee's or contractor's address as shown in the contract or grant, or as amended thereafter.

(3) Upon receipt of said proof of notification by the granting or contracting agency from the grantee or contractor, evidenced by the return receipt referenced in paragraph (2), the granting or contracting agency upon the passage of 14 days from the date of return receipt to the agency shall withhold such payment unless, within such 14 day period, the granting or contracting agency receives notice from the contractor or grantee of a request for an agency hearing to determine whether such contractor or grantee was at the time of said conviction or is at the time of hearing in compliance with the requirement of this section. Upon such request for hearing, the granting or contracting agency shall conduct the requested hearing within 14 days from the date of receipt by the granting or contracting agency of the request for hearing but in no event less than 72 hours prior to the contractor's or grantee's receipt of notice of the hearing. Failure of the granting or contracting agency to timely notify the contractor or grantee shall suspend withholding payment until such time as the granting or contracting agency has afforded the grantee or contractor actual notice of no less than 72 hours prior to such hearing.

(4) Within five (5) days from the date of the hearing described in paragraph (3), the determination as to whether withholding of payment should occur, continue, or terminate shall be made by the granting or contracting agency. Failure of the granting or contracting agency to make such determination within the above stated five (5) day period, shall be deemed a decision to resume or continue all payments thereafter due.

(5) The determination required of the granting or contracting agency as provided in paragraph (4) shall be made favorable to the contractor or grantee, upon a showing by the contractor or grantee, by a preponderance of the evidence, that it is in compliance with subsections (a) and (b) and it is making good faith efforts to maintain a drug free workplace. If a conviction reflects good faith efforts made by a contractor or grantee to enforce a drug-free workplace by compliance with this section or through other workplace policy, such conviction for unlawful manufacture, distribution, dispensation, or possession of a controlled substance in the workplace, shall be considered substantial evidence that the employer is taking sufficient action to maintain a drug-free workplace and shall require a favorable determination for the contractor or grantee.

(6) In the event of a determination by the granting or contracting agency that the contractor or grantee has failed to comply with the requirements of paragraphs (3) and (4) the contractor or grantee may request a reconsideration of such determination based upon the contractor's or grantee's previous or subsequent efforts to comply within the 14 day and 5 day time periods contained within paragraphs (3)(B) and (4) respectively.

(e) EXCEPTION.—This section shall not apply to an entity if the head of the granting or contracting agencies involved determines, in his or her discretion, that withholding payments due under a grant or contract, or not issuing such a grant or not awarding such a contract authorized under this Act, as the case may be, would severely disrupt the operation of such entity to the detriment of the Federal Government or the general public.

Mr. WALKER (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Madam Chairman, over the last several weeks we have been talking in Congress, both in committees and here on the floor, about the concept of drug-free workplaces. We have been talking about using Federal moneys to leverage drug-free workplaces.

In other words, saying to employers across this country that, "If you are going to take Federal money, we insist that the money be utilized in places which are free of the use of illegal controlled substances."

Now that particular language has gone into appropriation bills and some on the floor have criticized the appropriations language as being too general, too broad.

Well, of course, the reason why you have generalized language in appropriations bills is it is what can be made in order. There is very little opportunity to flush out what a drug-free workplace policy should be in an appropriations bill. It would be ruled out as legislation on an appropriation bill.

So what we are doing in the appropriation bills is we are setting the policy, setting the standard, Congress has overwhelmingly approved the concept that indeed we ought to limit funds to those places which are not drug-free.

Now we have an opportunity this afternoon in an authorization bill to speak to the specifics of how that policy might work. How could you put in place a policy that assures drug-free workplaces that assures that the cutoff of funds is done under some procedural method? That is what this amendment that you have before you today does.

It sets up a policy, it sets up a procedure to assure the drug-free workplaces can be made real.

Now I would have to say that I think that everybody in the Congress has now decided that we want a policy. I have heard no one tell me that they do not think we ought to have a policy in place for drug-free workplaces.

Everybody is saying that, "OK, yes, tell employers as a part of getting their contract they should establish a drug-free policy, that sounds like a good idea."

As a matter of fact, the people who will be contending me on the floor today in this particular issue all have a policy; they all want something done.

The issue here is whether or not we are going to have more than a policy but whether or not we are going to have something real done about drug use that takes place in the workplace; whether there are going to be real sanctions levied against those people that have employees using drugs at work. And there, I have got to tell you, I think we have a difference of philosophies and I think, in all honesty, we have a difference of goals; because

my goal is very simple. I want to, if possible, remove every last ounce of illegal drugs from America's workplaces. And where we have leverage to begin that process is with Federal money. And so the standard that you have before you today says this: If someone is convicted, is convicted of use of drugs in the workplace, at that point the Federal Government will shut off the money to that contractor until that contractor can show that the policy that he had in place was being applied in good faith or that he assisted, even, in getting the person convicted. Those kinds of tests, and so on, can show that that employer is in fact acting in good faith, that the conviction represented an aberration and not a part of an ongoing problem in that workplace.

Mr. HUNTER. Madam Chairman, will the gentleman yield to me?

Mr. WALKER. I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman for yielding.

Madam Chairman, what the gentleman has been talking about has been a real sticking point, I think, for the other side. There have been claims that somehow people would lose multibillion-dollar contracts because one person had a marijuana cigarette on the job.

As I read the gentleman's amendment, the workplace is a place where the use of narcotics can be cured. For example, if you have a cement contractor working on a Federal job and his trowel man, for example, is using narcotics on the job, that situation can be cured by the dismissal of that particular workman and by the picking up or cleaning up of whatever illegal narcotics are on the job. That could be a matter of minutes or a matter of hours.

Mr. WALKER. Let me say to the gentleman that the standard here for cutting off the money, which seems to be the point everybody is worrying about.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 5 additional minutes.)

Mr. WALKER. Madam Chairman, the standard under this is much stiffer than that. Everybody is worried about the fact that one person could end the money flowing to a site. Well, it is not just one person who is caught using drugs; it is one person who is convicted of using drugs. That means you have to go through an arrest, a prosecution, a trial, and an actual conviction in a court of competent jurisdiction before the Government could step in and cut off the funds.

So that you are talking about a very elaborate process that would have to be involved for that one person to be shown absolutely in a court of competent jurisdiction that they were using drugs in the workplace.

Now, if that takes place, obviously you do not have a drug-free workplace. If someone has been convicted of the use of drugs in that workplace, obviously that workplace is not drug-free.

Therefore, you have by definition violated the policy that you set in place.

So what my amendment says is at the point that we know that you are in violation we cut off the funds until you can show the Government that you are making good faith efforts either to stay in compliance or to bring yourself back into compliance.

Now that means that the cutoff of funds does takes place based upon the conviction, but it is not just within an hour or so that somebody has done or is found to do it, you have to have a conviction of that person in order for the cutoff of funds to take place.

Now obviously if an employer found someone using that marijuana cigarette, he probably wants that person off his site because he does not want drugs used on the site. So, therefore, he does not want to risk having a conviction down the line. So as soon as he removes that person or sends that person to rehabilitation or takes some other action that assures that that person is no longer using, he is in fact a part of the good faith efforts that will accrue to his benefit later on.

Mr. HUNTER. If I may follow the gentleman's example, if you are going to apply this in a practical application, let us say you have 30 or 40 workers working for a particular contractor doing cement work, again, on a Federal project. That contractor then could immediately issue an order to all of his workers that no narcotics will be tolerated, that the foreman will be making an inspection of their workplaces every several hours and that the foreman will, in fact, be looking for narcotics as well as looking for indicia of workmanship and other things that he is looking for.

Mr. WALKER. Well, let me tell the gentleman what the amendment says. The amendment says that not only does he have to tell the workers that, the amendment says he has to publish a statement of policy prohibiting the unlawful manufacture, distribution, dispensation, or possession of a controlled substance while on the workplace.

Furthermore, the policy says that you have to require that each employee, as a condition of employment, certify he or she received a copy of that statement of policy, understands its contents and that he or she will abide by such a policy.

So that in fact you have to have a written policy that all the employees agree to abide by.

Mr. HUNTER. So if the gentleman will continue to yield.

Mr. WALKER. Surely.

Mr. HUNTER. Then that contractor with the 30 or 40 workers could type up such a policy, he could have his foreman deliver a copy to each worker and have them sign or acknowledge the fact that they have received it and finally he could tack that policy up on the bulletin board or in a place on the worksite where everybody could see it. By doing those things and by doing other things, he will have come into compliance with our drug-free workplace standards, is that accurate?

Mr. WALKER. That is exactly right.

Mr. HUNTER. So when people talk about this momentous throwing out of jobs of millions of people and multibillion-dollar contracts being eliminated from the face of the Earth forever, they are really misconstruing the gentleman's amendment.

Mr. WALKER. That is exactly right. What they are doing, I mean, is they are purposely trying to put up strawmen to knock down in hopes of killing the concept. I realize there are people around the Congress who are vehemently opposed to using the Federal Government's power to assure a drug-free workplace. I have heard them in committee, I have heard them on the floor. You know, there are some people who want to laugh about this. There are some people who want to make all kinds of efforts to defeat it. I understand that. But the fact is that this is something where the Federal Government can apply real pressure and does have the ability to do real things without jeopardizing thousands upon thousands of workers. It is a matter of simply implementing a clear-cut policy.

Let me talk a little bit about the policy, because as I have stated, it involves a statement, it involves the employees knowing about it and then, if there is a conviction, it involves withholding of payments at the point that a conviction takes place.

Now some people have said, Well, you know, there are all kinds of problems with the Walker amendment. For instance, that the business that falsely certifies as a part of this that it is providing a drug-free workplace, there are no sanctions against them. Wrong.

In the Walker amendment there is in fact language that says that no person or organization shall be considered a responsible source under the meaning of the terms defined in the Office of Federal Procurement Policy.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 5 additional minutes.)

Mr. WALKER. The fact is that there is a way at the point that some-

body deliberately falsifies their records, they are no longer a responsible source and their money could be cut off. That is in the Walker amendment.

There are people who say that the Walker amendment in terms of policy does not provide long-term effects in terms of the debarment and so on. Wrong again.

What we are doing is we are cutting off funds until they bring the workplace back into compliance.

All we are trying to achieve here is drug-free workplaces. Once somebody is in compliance with that, there is no need to stop the money from going to them. So that what we are trying to achieve is the goal of a drug-free workplace. You do not need to go beyond that.

People have complained there is not enough due process here. The Walker amendment is replete with the business of due process. Once the money has been cut off, the contractors and grantees are given appeal periods; they are allowed to show to the Government during times specified for that—this cannot drag out over a period of months or years, it has to happen within a matter of days—and the employer can come in and show that he or she has achieved a standard that is acceptable to the Government.

It seems to me that we have an obligation here this afternoon to go beyond what we have done in the appropriation bills, which is by nature of the appropriation bills, very generalized language, and adopt a very specific approach to this business of guaranteeing drug-free workplaces.

If what we do here this afternoon is simply come up with more generalities, it seems to me that what we will do is lose the issue, that we at that point will be in a place of not fulfilling what the American people expect of us and that is to have a tough crackdown on drugs.

□ 1530

My amendment moves us in the direction of assuring that there is a policy for drug-free workplaces, and then there is a sanction for those who are not drug free. It seems to me that is the kind of tough policy the Congress needs to adopt.

Mr. DYNALLY. Madam Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. DYMALLY. Madam Chairman, let me ask my friend, if a young man comes into a drug prevention clinic and he has a piece of grass or some crack in his pocket and he was being followed by the police and he is caught on the premises without the knowledge of the workers or the sponsors of the program, does that mean then that they lose their funding because he was caught on the premises?

Mr. WALKER. No. First of all, he would have to be an employee. He would have to be an employee.

Mr. DYMALLY. Let us assume he was a part-time employee.

Mr. WALKER. All right. If he was an employee, first of all, he would have to be informed well in advance that there was a policy against doing that, so he would be in violation of the oath he signed with his employer by doing that. So the employer at that point has somebody who is out of compliance with the policy that is set.

Second, the funds could not be taken away just because of the arrest. That person would have to be convicted in a court of competent jurisdiction. Once that conviction has taken place, at that point the Federal Government could withhold the money or would withhold the money, but if the employer could show that they were making good faith efforts and if that employee, for instance, had been forced to sign that policy and understand the policy and also did understand the policy and he was simply in aberration of the policy, then the money could continue to flow.

Mr. DYMALLY. Yes, but let us say the money had been withdrawn, and then they would have to make a case for that.

Mr. WALKER. But the money under the Walker amendment has to be back flowing within a matter of days. There is an appeals process here that takes just a matter of days to complete, so within a period of time that checks are being written on a monthly basis the appeals process would have to be taking place under the Walker amendment.

Mr. DYMALLY. Madam Chairman, the gentleman is one of the biggest critics of the bureaucracy. Once a check has been stopped in the bureaucracy, it takes years for them to get it back on track.

Mr. WALKER. No. Well, we must remember, first of all, it is specified by law that they have to do it here. That is the advantage we have over virtually every other amendment we have out here today. Nobody else has that kind of time test in it.

Second, I would say to the gentleman that we should remember that we have a conviction standard here so that you would have had a period of time during which a conviction was taking place over a long period of time to mitigate some of the circumstances and to begin to prove to the agency what is involved. It seems to me that if we have a convicted drug criminal at one of these sites, we would want to be rid of him, we would want to figure out a policy that assures us that we can be rid of those kinds of people. We do not want to be endorsing having them on our side.

Mr. DYMALLY. Madam Chairman, I rise in support of the measure but in opposition to the amendment.

Madam Chairman, I rise in support of H.R. 1801, the Juvenile Justice and Delinquency Prevention Act. I strongly believe that this bill has excellent merit and I would like to congratulate my colleague the distinguished chairman of the Education and Labor Subcommittee on Human Resources, Representative KILDEE, for his great leadership and diligence in this matter.

The merits of this bill are many, including authorization of funds for runaway and homeless youth programs and missing children's programs. All are very worthy programs designed to address the problems of runaway children and curtail the anguish experienced by concerned parents of runaways.

I am strongly in favor of the bill's authorization of $10 million in fiscal year 1989 and, thereafter, whatever sum is necessary to launch a full-scale campaign with a focus aimed at reducing youth gang-related incidences of violence.

Madam Chairman, outside of the immediate boundaries of the city of Los Angeles which usually gets wide media coverage and resources to combat its gang problem, the city of Compton is plagued with the most serious gang-related violence problem. This problem has been highlighted recently by national cable coverage of the shooting of 6-year-old Irma Saucedo, along with her mother and father, while watching TV in their home. Irma was killed instantly while both parents died in the hospital a couple of days later. This shooting was triggered by a baseball hat worn by her teenage brother which angered local gang members.

Madam Chairman, unfortunately, such loss of innocent life is not limited to the Saucedo family. Not a day goes by in Compton without a gang-related shooting. Not a single visit to the district is without constituent complaints about gang-related violence. Our citizens are terrorized in their own neighborhoods. Family members are housebound for fear of becoming another statistic of the gang violence.

Madam Chairman, the Subcommittee on Criminal Justice of the House Judiciary Committee will be conducting a hearing in Compton on June 6, 1988, to examine the gang violence and drive-by shootings in the smaller cities around Los Angeles such as Compton.

Madam Chairman, I would like to read an excerpt from one of three stories published in a single day by the Los Angeles Herald Examiner on May 12, 1988: "I want to say I'm too young to die. I have a life ahead of me * * *", read the letter of this frightened 15-year-old. The scrawl on the envelope read "From a Concerned Student" and was delivered to the principal of Audubon Junior High upon the news that Jamee Finney, a boisterous 13-year-old schoolmate, had been gunned down with a Uzi submachinegun as she was riding home with LaToniya Stovern, an 18-year-old friend. The girls were on their way home from a hamburger stand, innocent victims of another senseless and violent murderous attack by drug-dealing gang members who mistook them for someone else. The fact that both girls tried to steer clear of all gang

members, and took pains not to wear any gang colors did not save them. One out of every three of Jamee's classmates had to be sent to the school psychologist for crisis counseling.

Madam Chairman, this article headlined "Slain Girl's Peers Fear They'll Be Next" depicts the fears of those youngsters trapped in a world infested with gangs whose breeding grounds are bleak housing projects such as the one next to Audubon Junior High School and known colloquially as "The Jungle."

Madam Chairman, every return visit to my district confirms the need to address this critical problem we face in Los Angeles County. Operation Safe Streets reports that gang homicides have doubled in the past 8 years.

Today there are more than 600 gangs; 239 gangs and at least 26,000 of the members are within the Los Angeles County jurisdiction; 182 gang-related homicides or 47 percent were committed in the smaller cities around Los Angeles such as Compton and Lynwood. This is why our colleague Representative JOHN CONYERS, chairman of the Subcommittee on Criminal Justice has agreed to hold a hearing next Monday in Compton to address the issue of gang-related violence.

I do not pretend to have a magical answer to the gang problem. However, many indications point to the lack of economic opportunities for the young who, in many instances, are condemned to a life of crime as the only way to economic progress. This point is underscored by an April 15, 1988, Los Angeles Times report that a significant number of gang members are willing to abandon a life of crime if offered a decent job.

Baxter Sinclair, the owner of a pipeline construction business, who hired gang members on a temporary basis to guard a construction project was surprised to see these same people ask him for permanent jobs in pipeline work. Today, about 20 of the 100 men in Sinclair's Compton-based crew are former gang members.

Madam Chairman, I strongly support H.R. 1801 and its excellent gang prevention and treatment programs. The gang problem cannot be resolved on a local level alone. Federal initiatives such as this can provide a new beginning for our citizens.

I urge my colleagues to vote for the passage of H.R. 1801. And I look forward to future initiatives which will provide new hope for communities living in fear of gang violence. Programs such as the high school-college partnership programs and demonstration projects which can give our young people a new hope for their future. These programs can help our communities to reclaim their neighborhoods; and can provide our young people with an American dream that is not founded upon reliance on drugs and gangs, but founded on hope for decent jobs and pride in the product of their labor and their contributions to their communities.

AMENDMENT OFFERED BY MR. KILDEE TO THE AMENDMENT OFFERED BY MR. WALKER

Mr. KILDEE. Madam Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. KILDEE to the amendment offered by Mr. WALKER: Strike out all after the word section and insert the following:

SEC. 403. DRUG FREE WORKPLACES.

An applicant for funds appropriated to carry out any Act amended by this Act shall be ineligible to receive such funds if such applicant fails to include in its application an assurance that it has, and will administer in good faith, a policy designed to ensure that all of its workplaces are free from the illegal use or possession of controlled substances by its employees.

Mr. KILDEE. Madam Chairman, my amendment amends the Walker amendment to insert simple yet effective requirements regarding the requirement of drug-free workplaces, which both of us want to have. It precludes any applicant under the Juvenile Justice and Delinquency Prevention Act from receiving any funding unless the applicant provides an assurance that it has adopted a policy designed to ensure that its work places are free from the illegal use or possession of controlled substances by its employees. The applicant must further assure that it will administer its policy in good faith.

Now, my amendment, I believe, is superior to the Walker amendment for the following reasons: First it incorporates the important elements of the Walker amendment, that is, the development of a policy for a drug-free work place and the requirement of the good faith administration of the policy.

Madam Chairman, it would not have an adverse impact on grantees because the required assurances are made in the course of the usual application process. In addition, it does not require new and cumbersome administrative procedures, as would the Walker amendment, but instead makes the good faith administration of the policies part of the terms of the grant or of the contract. Therefore, if a grantee does not adequately administer his policies, his grant may be suspended or terminated, utilizing the very effective existing Federal agency procedures, including for the most part the procedures of the Justice Department itself.

Now, we have under this act terminated grants already. We have terminated grants for other reasons, using existing policies. Most of these programs are small programs with less than 25 employees. There are very well policed. As a matter of fact, the gentleman from Iowa [Mr. TAUKE] and I know many of the people involved in the administration of these programs around the country, and most of the people in these programs are there because they are really so proyouth and from that connection are very antidrug, so that the policing takes place.

I would add, however, that even with that attitude that already exists, under my amendment, grant applicants must promise this good faith effort at the beginning, and promise to police and maintain that good faith policy. I think that that will more effectively serve the purpose.

Now, existing Justice Department regulations provide, as I said, for the suspension or termination of the grants. If one fails to live up to the terms of the grant, they may be terminated, and we have a record of that termination. If it violates any Federal or State law, they can be terminated beyond the specific statements within the grant itself. And we have a built-in mechanism that has already proven that it works, and most of that mechanism is in the Justice Department itself, which has a long history of enforcement.

The gentleman from Pennsylvania knows me quite well. He knows that I myself have three teenage children for whom I have enormous love and tremendous concern, and whenever I attempt to enact legislation here on this floor, I try to treat the children of America as I would have my own children treated. So I have to worry about this. Every parent of teenage children has to worry about this.

So it is not likely that I would come to this microphone offering a perfecting amendment without the understanding that I do it with sincerity and with great concern for all the children of America. If I thought the Walker amendment really would help those children of America, especially the troubled children that this act addresses itself to, I would support it, but I really think it would impose an administrative burden and that it would make it more difficult for this administration and these agencies to help those children.

Mr. HUNTER. Madam Chairman, will the gentleman yield?

Mr. KILDEE. I am happy to yield to the gentleman from California.

Mr. HUNTER. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I have looked over the gentleman's amendment as one Member who has followed this continuing debate on the Walker amendment that has come up on a series of bills, and I want to compliment the gentleman for changing the tone of this total debate.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. KILDEE] has expired.

(On request of Mr. HUNTER, and by unanimous consent, Mr. KILDEE was allowed to proceed for 4 additional minutes.)

Mr. HUNTER. Madam Chairman, will the gentleman continue to yield?

Mr. KILDEE. I am happy to yield to the gentleman from California.

Mr. HUNTER. Madam Chairman, I noticed the initial tone coming from that side of the aisle was one of mockery, and I heard some rather severe words directed toward the amendment

offered by the gentleman from Pennsylvania [Mr. WALKER] about this drug-free workplace idea, that the whole idea is not workable and we should do away with it. But now I see from this gentleman, who is very sincere, really an acceptance of the concept of using the drug-free workplace to rid this country of drugs by getting employers involved, by getting foremen involved, and by getting people who have an economic interest in making the contracts work involved to see to it that their employees are not utilizing drugs on the job.

So I want to commend the gentleman. I see it as a total 180-degree turnaround, and my recommendation, for what it is worth, to the gentleman from Pennsylvania is that the gentleman has an excellent amendment here, and I want to commend him for his acceptance of the idea of a drug-free workplace and the idea that we can use this mechanism to aid in the war against drugs.

Madam Chairman, I think it is a tremendous turnaround and the gentleman should be commended for it.

□ 1540

Mr. TAUKE. Madam Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Madam Chairman, first I want to commend the gentleman from Pennsylvania [Mr. WALKER] for the tremendous work he has done in bringing this issue to the floor of the House, and he has been very persistent in his efforts to try to ensure that there is a drug-free workplace. As the gentleman from California indicated, when that battle began, there were a lot of skeptics on the floor of the House and a lot of outright opponents to that effort, but now the mood is changing, and there is recognition that we can do something at the Federal level to try to put some teeth in this aspect of our anti-drug policies.

Now we are, however, moving to a second phase, and that phase is how do we implement the policy, and I do not know that I want to speak to the issue in general, but in the terms of the Juvenile Justice and Delinquency Prevention Act it seems to me that the approach offered by the gentleman from Michigan [Mr. KILDEE] has a couple of provisions or a couple of aspects to it which are favorable and which are superior to the Walker amendment.

One of the concerns I have relating to the Walker amendment is, at least as I read it, the assumption is that once a conviction is made for possession or use of drugs in the workplace, that there is, as a result of that conviction, an automatic cutoff of funds. In other words, the assumption is that the employer is guilty, that the person who received the grant is guilty.

Now many of those people, especially those who are dealing in this area of juvenile justice may be making an extraordinarily fine effort to keep drugs out of the workplace, yet they would be assumed to be guilty, assumed to be in violation of their contract as a result of any conviction no matter how good their effort is. Then they have to go through what is a rather cumbersome procedure in order to be reinstated.

Madam Chairman, I do not think that is the best policy for us to pursue from a philosophical perspective, that presumption of negligence on the part of the employee, nor do I think it is best from an administrative standpoint because it means a cumbersome administrative process when that may not necessarily be needed.

It seems to me also that it is important to recognize that in this case most of the money is flowing to the States, and then from the States out to a whole variety of groups and organizations. Those groups and organizations in many cases are very small. Even the procedures relating to notification and so on, while not that significant in the greater scheme of things, it is more paperwork being put on their bureaus and agencies, some of which have no problem, and it is another little piece of administrative burden that is added to them, and we are trying to get them to do this job under the Juvenile Justice and Delinquency Prevention Act, not make it more difficult for that.

So it seems to me, Madam Chairman, there are a few problems with the Walker amendment that are not there in the Kildee amendment, yet the Kildee amendment achieves the essential goal which is keeping drugs out of the workplace, and it uses current administrative procedures, which I think will be less cumbersome for most employees, employers, and grantees.

Madam Chairman, that is why I support the Kildee amendment to the Walker amendment.

Mr. JEFFORDS. Madam Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Madam Chairman, I want to join the gentleman. I back the amendment of the gentleman from Pennsylvania. I did have some concerns at that time for the reasons that the gentleman has stated, but I did feel it was incredibly important that we establish as a matter of Federal policy that we must do what we can to keep the workplace as free from the use of drugs and make it clear that we are taking a real strong position in establishing that policy. However, I do agree with the gentleman that there are a number of problems which are created by the approach taken by the gentleman from Pennsylvania [Mr. WALKER] which the Kildee amendment seems to address and give a much clearer role to take and enforce the provisions of a drug-free workplace, so I would agree and support the Kildee amendment, and I would hope that the gentleman from Pennsylvania, who has done tremendous work in raising this issue to the height that it has been raised, with perhaps some modifications, would be willing to accept it and then join together with all of us so that we can speak with one voice on both sides of the aisle to establish a clear policy in the workplace.

Mr. GRANDY. Madam Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Iowa.

Mr. GRANDY. Madam Chairman, I thank the gentleman from Iowa [Mr. TAUKE] and I, too, rise in support of the Kildee amendment to the Walker amendment.

Madam Chairman, I am one of the new Members on this side of the aisle who has consistently, but reluctantly, opposed the Walker amendment because I am opposed to mandating policy, whether it is mandated leave, mandated health benefits or, in this case, mandated police power to enforce drugs.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. TAUKE] has expired.

(By unanimous consent, Mr. TAUKE was allowed to proceed for 3 additional minutes.)

Mr. TAUKE. Madam Chairman, I yield to the gentleman from Iowa.

Mr. GRANDY. Madam Chairman, I thank the gentleman for the 3 minutes.

My concern is because I do support the idea we would eventually reach a point where the implementation of that idea was not practical, and I think the Juvenile Justice Act is a perfect place where those two concepts collide. Under the Walker amendment, as I read it, even the worst case scenario, the unlikely scenario of a conviction, could result in the loss of funds.

What would that result in? The loss of a safe haven for a lot of innocent people who were not involved, to send them back to an environment that is probably more disruptive than the one they are going to.

So I think that in this particular case we have to remember not just what the amendment is, but what we are amending it to, and that is why I commend the gentleman from Michigan [Mr. KILDEE], our chairman on the Human Resources Subcommittee, for providing an amendment that sensitizes contractees and grantees without bludgeoning them, providing incentives, not penalties.

I think what we have here is something that the gentleman from Penn-

sylvania [Mr. WALKER] has started, the gentleman from Michigan [Mr. KILDEE] now is succeeding in finishing, which is to create a demand that we all have for a bipartisan drug policy, not political counterpunches which are very often full of sound and fury, but probably will signify nothing. This is an amendment that does not have to be taken out in conference.

So, Madam Chairman, I would simply say that I hope that the Walker-Kildee initiative is a preamble to a drug effort that this Congress and this Government will begin, but is also an implementation of an idea that we all support.

Mr. TAUKE. Madam Chairman, I thank the gentleman for his comments, and I want to take this opportunity to commend him for the outstanding work he has done as a member of this subcommittee in the development of this legislation.

Madam Chairman, I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Madam Chairman, I thank the gentleman for yielding, and I want to commend both gentlemen for their work on this particular amendment and their statements, and I agree with the gentleman from Iowa that here we have something that is not frivolous, as some of the previous amendments to the Walker amendment have been. It is a meaningful amendment.

I have one question that I would like to pose to our side of the aisle and to Mr. KILDEE also. One thing I am concerned about, and I think we all are, those of us who like the idea of getting the employer involved, getting that foreman involved, to see that narcotics are not used in the workplace. Are we making sure that we are doing more than simply putting a paper-signing requirement in front of employers before they get the contract because, as all my colleagues know, this is a world of forms, and one has to sign forms 1 through 35, and we do not want this to be just another form that has to be signed assuring that there will be a drug-free workplace when in fact the practice may be different.

Madam Chairman, I guess what I am saying is that we want to make sure that the employer is vigilant, that he takes actions and that he does not simply include this in the stack of numerous papers to be signed as a prerequisite to doing work with the Federal Government.

Mr. GRANDY. Madam Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Iowa.

Mr. GRANDY. Madam Chairman, I think I can answer part of that or at least presume to answer part of it.

Madam Chairman, I would assume that under the Kildee amendment anybody who had to provide a policy would first have to check with existing State statutes regarding what he can and cannot do in terms of testing place for positions. I know that our State of Iowa restricts applicant testings; so does Connecticut; so do several other States, and there are some States such as Minnesota that allow no applicant testing unless a job is offered. This forces the employer to become cognizant of that body of information and provide a policy which is in harmony with State law as well as Federal law.

The problem without the Kildee language, I think, is that we rush full-blown into a policy that we could not implement, so in a sense I think we are more vigilant with Kildee amended to Walker.

Mr. TAUKE. Madam Chairman, I think that, if the gentleman will permit me to make a response, the gentleman from Michigan [Mr. KILDEE] really needs to respond to this question, but my understanding would be this:

That we are by this amendment triggering a process whereby the department would be forced to set forth some administrative rules which would include guidelines that the employers who are seeking Federal funds would have to meet.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. TAUKE] has expired.

(By unanimous consent Mr. TAUKE was allowed to proceed for 2 additional minutes.)

Mr. TAUKE. My assumption, Madam Chairman, is that many of the provisions that Mr. WALKER in his amendment would probably find their way into those rules and administrative procedures.

□ 1550

I think it should be clear that the thrust of those procedures would be to ensure that the employer has the responsibility to do all he or she can within the law to make certain that there is no drug activity, use, possession, or distribution, in that workplace.

It seems to me that it also should be clear that there would be some kind of procedure set up to notify grantees that if they did not comply or there was suspicion they were not complying, that they were going to be called in and the procedure would be followed for the removal of them from the rolls of grantees.

Mr. HUNTER. Madam Chairman, if the gentleman will yield, I think he has just hit on the key. What I am concerned about and I think other Members are concerned about is some carrot or stick that will give the employer a motive, motivation to be vigilant, in an ongoing manner in the workplace. In other words, after his grant application is filed and he signed all the right statements of policy against drugs, will his foreman be out there looking at that workplace when those cement contractors are working, making sure that his employees are not using narcotics, because there is a certain leverage that can be exerted if he fails.

Mr. TAUKE. Well, I believe that employers are going to have that responsibility and that certainly is the intent of this amendment.

The procedure is a little bit different, because as the gentleman from Michigan [Mr. KILDEE] pointed out in his discussion, we already have a procedure under the act to pull the funds away from grantees who are violating any of the agreements that they have entered into with the Department. If this is one of the agreements that they have entered into to insure a drug-free workplace and they are not living up to that agreement, that is grounds for pulling the funds. So that is why I say many of the procedures that are in the Walker amendment undoubtedly would find their way into administrative rules.

Mr. KILDEE. Madam Chairman, will the gentleman yield?

Mr. TAUKE. I am happy to yield to the gentleman from Michigan.

Mr. KILDEE. Well, the policy that we would require would really follow——

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(At the request of Mr. HUNTER, and by unanimous consent, Mr. TAUKE was allowed to proceed for 3 additional minutes.)

Mr. KILDEE. Madam Chairman, if the gentleman will continue to yield, it would really follow from existing Justice Department regulations and they require that all grants, first of all, must maintain the terms of the grant agreement and that all Federal and State laws be adhered to, so when that grant is given, the policy statement required to get that grant would have to be adhered to along with all existing Federal and State laws. If there were any violation, under section 226 of the Juvenile Justice Act, the grant can be terminated.

Just about 1 year ago a grant was terminated rather expeditiously when it became clear that it was not following, in this instance, the terms of the grant.

Mr. HUNTER. Was that a drug case or a narcotics case?

Mr. KILDEE. Actually, it was not a drug case, it was in a drug program, interestingly enough. It was the National Partnership to Prevent Drug and Alcohol Abuse; but it was not a drug violation. It was just that they were not carrying out the purpose as stated in the grant.

Under my amendment, one of the purposes in the grant and one of the

requirements in the grant would be the policy of a drug-free environment.

Mr. HUNTER. Madam Chairman, if the gentleman will yield further, I would like to ask one more question.

Looking at it from a practical point of view, let us take that contractor again, he is a cement contractor. He has got 30 workers on a Federal program or Federal job site. It is obvious that at least one of the workers is utilizing marijuana, let us say, while on the job. Under the apparatus and the machinery that the gentleman says is already in place, assuming that that contractor filed or signed the appropriate documents insuring a drug-free workplace for his drug-free policy, what would be the reaction from the Federal Government upon discovery of this utilization of narcotics in the workplace? Would there be strong action taken?

Mr. KILDEE. Well, Madam Chairman, if the gentleman will yield further, I do not have a lot of experience in this program with concrete operators.

Mr. HUNTER. Well, any operator, any contractor.

Mr. KILDEE. I am just saying, if they poured the walkway up to the runaway home, their work may have already been completed when they discovered that the person putting in the concrete maybe had some substance on his person. I do not know whether it would serve any useful purpose at all to tear up the concrete sidewalk at that point. But seriously, where we are involved with people directly related to dealing with youths, there is where we would terminate the contract with that group, and there are procedures in section 226 for that; but when we reach out beyond that——

Mr. TAUKE. Well, let me just clarify that, if I may. We do not deal in this act generally with capital expenditures, like manufacturing facilities or products. We do not deal with the pouring of concrete, frankly, or the building of buildings. We are generally dealing with agencies that are providing human services kinds of activities, so I think that is why there is a little difficulty in this response, but I think it is fairly clear if we had somebody providing one of these human services——

Mr. CHAIRMAN. The time of the gentleman from Iowa has again expired.

(By unanimous consent, Mr. TAUKE was allowed to proceed for 1 additional minute.)

Mr. TAUKE. We are dealing with a situation where a human services agency has an employee who is providing services under this act and that employee is involved in drug use, possession or distribution, or other activities, that we would expect that the Department would take action to pull the money from that grantee if that grantee was not taking appropriate action to deal with the problem.

Mr. KILDEE. They have withheld money for less an offense in my mind than drug offenses.

Mr. HUNTER. So the answer is that there would be strong action taken upon discovery that an employee was, in fact, illegally using narcotics at the site and there would, therefore, be a motivation for the supervisors or whoever to be vigilant against the use of narcotics; it would be an ongoing thing.

Mr. KILDEE. Absolutely, and I will be as vigilant as is the gentleman from Iowa [Mr. TAUKE] in the oversight responsibility in this legislation on that. We have seen no instance of that yet in our oversight hearings, but we would be most vigilant in our oversight on this.

Mr. WALKER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I think the gentleman has presented us with an interesting amendment, and if I could I would like to explore a couple of things with him about it.

If I understood the dialog that we just had here, the amendment does not state that there would be a withholding of funds.

What the gentleman is saying is that indeed the leverage that would exist for the Federal Government under the gentleman's amendment because of present Department policy; is that correct?

Mr. KILDEE. Madam Chairman, if the gentlemam will yield, we have present procedures, and the procedures have been utilized that when a grant is not carried out according to the terms of the grant, the Justice Department or the other agency can move in and terminate the grant. That is what we would expect them to do and I think the language leads them to do that.

Mr. TAUKE. Madam Chairman, will the gentleman yield on that point?

Mr. WALKER. I am glad to yield to the gentleman from Iowa.

Mr. TAUKE. Madam Chairman, I think it is fairly clear that that is the leverage that is there. It does seem to me in fairness to respond to the gentleman, though, that the Department would have to exercise some discretion. If, for example, an individual who is employed by an agency that is the recipient of a grant is fired, once it is found that that employee has possession of some drug, and the employer then fires him, obviously then we would not cut off the funds to the employer who was enforcing his own drug-free workplace policy.

So I think we have to say that the leverage over the employer is the cutoff of funds, but that obviously has to be implemented with some discretion.

Mr. WALKER. Obviously my intent all along has been to use that leverage in order to achieve drug free workplaces, and I think I hear the gentleman saying that is the leverage that exists under this amendment, even though it is not so specified in the amendment.

Now, let me see if I understand what would happen here. The applicant would have to specify a particular policy for a drug-free workplace in making the application for the money; is that correct?

Mr. KILDEE. If the gentleman will yield, Madam Chairman, it would be part of the grant application and that would be contained in the terms of the grant.

Mr. WALKER. And that policy would have to assure that it has in place a policy designed to ensure that all the workplaces are free from the illegal use of drugs; is that correct?

Mr. KILDEE. That is correct.

Mr. WALKER. And then in addition, what the gentleman's amendment says is that that particular policy cannot just sit there as a policy, but it would have to be administered in good faith.

Mr. KILDEE. Yes. The administration of that policy is part of the policy, a part of the grant.

Mr. WALKER. So indeed just having the policy in place, the fact that you have filled out the paperwork is not good enough. You would have to be actually implementing that policy in order to continue to receive your money.

Mr. KILDEE. It says it will be administered in good faith.

Mr. WALKER. All right. The one thing I see that troubles me a little bit, and I am wondering whether or not the gentleman by unanimous consent might be willing to modify his amendment, is that in the amendment I had offered we went into areas such as distribution of drugs. It seems to me that the one thing that the gentleman might want to include, since he includes use and possession, he might also want to include distribution, so that these sites were not places where there was the sale of drugs taking place.

With that modification, it seems to me that it is probably moving in the direction this gentleman wants to achieve, and if the language is more comfortable to the committee, it seems to me that is probably something we should do.

Mr. KILDEE. Madam Chairman, I would first have no problem at all to ask unanimous consent to instruct the Clerk to add after "use or possession," the words "or distribution."

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan to modify the amendment by the addition of the words "or distribution?"

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from Michigan [Mr. KILDEE] is so modified.

The text of the amendment, as modified, is as follows:

Amendment offered by Mr. KILDEE, as modified to the amendment offered by Mr. WALKER: Strike out all after the word section and insert the following:

SEC. 403. DRUG FREE WORKPLACES.

An applicant for funds appropriated to carry out any Act amended by this Act shall be ineligible to receive such funds if such applicant fails to include in its application an assurance that it has, and will administer in good faith, a policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances by its employees.

Mr. GRANDY. Madam Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Iowa.

Mr. GRANDY. Madam Chairman, I thank the gentleman. He has raised a question in my mind that I believe I can answer, but I will address the chairman.

It seems to me that under this amendment, unlike the original amendment of the gentleman from Pennsylvania, we do not have to wait for conviction. We can have interdiction. We can have consistent abuse without conviction and the policy, in a sense, can be even stricter and more responsive than what we had before under the gentleman's amendment.

It also, I believe allows options other than termination. Rehabilitation always is an option, so I think we have, if I understand what the gentleman from Michigan is trying to do, we are trying to interdict the drugs a little earlier perhaps than waiting until a court of competent jurisdiction makes that determination.

Mr. WALKER. Madam Chairman, I thank the gentleman for pointing that out, because it is another note that I had here of the fact that with the gentleman's amendment we no longer have a conviction standard, that in fact we can probably have quicker action.

The reason for the conviction standard, of course, is because we were mandating an absolute cutoff under my amendment and we wanted to have some basis on which to do that.

If in fact we are establishing this kind of procedure, it seems to me that the conviction standard is not necessary, and therefore it would not be a part of this particular effort.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

Mr. HUNTER. Madam Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from California.

Mr. HUNTER. Madam Chairman, I thank the gentleman for yielding.

I think the discussion between all parties here has helped to define the Kildee amendment to the Walker amendment for all of us.

I would recommend to my friend, the gentleman from Pennsylvania, that with the modification, that he accept the Kildee amendment.

I want to commend the gentleman for starting this movement, the Walker drug-free workplace issue, which now has been joined by all Members and in a sincere way by both sides of the aisle.

Mr. WALKER. Madam Chairman, let me thank the gentleman.

It seems to me we can move in that direction. The authorization bills are a place where we can lay out standards by which we can achieve this; but it seems to me since the Justice Department does have procedures, that maybe the Kildee approach is the right approach today.

Mr. SCHUMER. Madam Chairman, I move to strike the requisite number of words.

First, Madam Chairman, let me, too, commend the gentleman from Michigan for adding or actually replacing the previous amendment with this amendment, which is an amendment I can live with; but I think we should make a couple points here now that this has happened, and that is that in the last few weeks a drug mania has overcome this Chamber, the other Chamber, and probably all of Washington.

Drugs are an extremely serious problem. They are not a problem that can go away by drafting a two-sentence solution, by getting up and making a speech or coming up with something at the last minute. It is going to take us to sit down and analyze the problem, roll up our sleeves, and work at the problem everyday, every week, every month.

Two years ago, approximately, when Len Bias passed away, we went through a similar paroxyism. We all jumped up and down. We did lots of things, and the drug problem today is worse than before, and that is because we were looking for the immediate. That is because we were looking for the quick hit.

I voted against the previous Walker amendments. I thought they were ridiculous. Those were amendments that said if you had 10,000 people in a factory and one person, perhaps with the desire to close down the factory, were convicted of having a marijuana cigarette in his or her pocket, that that plant would lose all of its Federal funding, that 9,999 innocent people would be hurt because of that one person.

□ 1605

We did things like that in World War II and we interned Japanese people. We did things like that in the 1950's when McCarthyism was rampant, and we were on the verge of doing it again with a two-sentence approach that said unless a workplace is entirely free of drugs that not just the drug abuser or distributer or whoever was using the drug would be punished but that everybody would be punished without due process, without any notion of fairness, and without any notion quite frankly of effectiveness at eliminating drugs.

Beset by that problem, under the leadership of the gentleman from Louisiana [Mr. HAYES], the gentlewoman from California [Mrs. BOXER], myself, and the gentleman from Missouri [Mr. VOLKMER] put together a proposal that is in some detail that which we had circulated around. The gentleman from Michigan [Mr. KILDEE] has embodied most of the points of that, particularly the good-faith exception.

Would it not have been terrible, would it not have been terrible if this Chamber did last week and the week before under the Walker amendments to say that if an employer was doing everything that employer could do in its good faith to get rid of drugs, that they would lose all Federal funding, lose all Federal funding if someone happened to sneak in a single marijuana cigarette. That is McCarthyism at its worst.

I am happy to say that this amendment that the gentleman from Michigan [Mr. KILDEE] has added does start putting us on the path to dealing with this issue.

Let us make it clear, the vast majority of drug related problems in America are not in the workplace at all. I do not know what the statistics are but I would guess that 90 or 95 percent of the arrests and convictions for drug abuse, and drug distribution are not in anybody's workplace but in the highways and byways of this country. If we are going to eliminate the problem, and maybe we cannot, but certainly if we are going to reduce the problem we have to have a broad, well-thought-out and long-term comprehensive approach that may not produce results tomorrow or the next day but may in future months. If we are looking at the workplace, I believe that the amendment the gentleman from Michigan [Mr. KILDEE] has added does at least look at the problem fairly and rationally and effectively. It aims itself at the employer, not the employee. It aims itself at the abuser, not everybody who happens to work in the place where that drug might be used.

Madam Chairman, I commend the gentleman from Michigan [Mr. KILDEE]. I oppose the previous Walker amendments. I will support this

amendment and I hope that this interchange which is bipartisan can set us on a path to doing something rational, fair, effective and constitutional to deal with the war on drugs.

Mr. WALKER. Madam Chairman, will the gentleman yield?

Mr. SCHUMER. Madam Chairman, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Madam Chairman, I think it would lend a little to this bipartisanship if the gentleman from New York [Mr. SCHUMER] would refrain from calling names and suggesting McCarthyism and all this kind of thing. It does not seem to me that lends much to building a bipartisanship and bipartisan atmosphere.

Mr. SCHUMER. Madam Chairman, reclaiming my time, I thank the gentleman from Pennsylvania for his comments. I would say that many of us on this side of the aisle were deeply troubled by what was happening in this Chamber and I think it is worthy of pointing that out.

The CHAIRMAN. The time of the gentleman from New York [Mr. SCHUMER] has expired.

(By unanimous consent, Mr. SCHUMER was allowed to proceed for 1 additional minute.)

Mr. SCHUMER. What the gentleman from Michigan [Mr. KILDEE] has done with the help, and I apologize for not acknowledging his work sooner, with the help of the gentleman from Iowa [Mr. TAUKE] and the other gentleman from Iowa [Mr. GRANDY] on the other side of the aisle all helped put us in the right direction, but I do think that it was important and is important to note that to solve, ameliorate, alleviate the drug crisis quick hits are just not going to work. Blaming everybody under the sun and using Draconian machinegun approaches is not going to solve the problem. In fact it may move us further away from the solution because the public will think we are doing something when in reality we are not.

The CHAIRMAN. The time of the gentleman from New York [Mr. SCHUMER] has again expired.

(On request of Mrs. BOXER and by unanimous consent, Mr. SCHUMER was allowed to proceed for 2 additional minutes.)

Mr. SCHUMER. Madam Chairman, I yield to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Madam Chairman, I thank the gentleman from New York [Mr. SCHUMER] for yielding.

Madam Chairman, as part of the team that worked for several weeks and many long hours on a substitute to the Walker approach, although I do not totally agree with what the gentleman from Pennsylvania [Mr. WALKER] was trying to do, I did not feel that his amendment was drawn as carefully as it could have been done. I am very supportive of the Kildee amendment because I think what the gentleman from Michigan [Mr. KILDEE] has done along with the help of the ranking members on his committee is to offer us something that really makes sense. I think as the gentleman from New York [Mr. SCHUMER] has said, it embodies the concept we were trying to accomplish in our longer legislation, namely there are three concepts involved. First, to target the employer which is very important because the employer has the ability to make some changes, to offer rehabilitation, or indeed to fire the offending employee. I think it is important to target the employer.

Second, it really sets up procedures. It is talking about making a good-faith effort in carrying out of a contract so it sets up normal procedures and that is good.

Third, the notion of the good-faith effort is important. As the gentleman from New York [Mr. SCHUMER] pointed out, it is a very important standard. We do not want to punish someone and take away their contracts if in fact they are doing the very best that they can.

We are going to be tough on this. I think the gentleman from Michigan [Mr. KILDEE] has stated that. There is going to be oversight on this. I am pleased to see us come together on this. I want to personally thank the gentleman from Louisiana [Mr. HAYES] because I think his leadership on this was outstanding and I look forward to working with him as we look at this in terms of a long-range solution.

Mr. JEFFORDS. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I want to say that I am glad that now we have all had an opportunity to take some credit for this amendment. I would hope that we now all can join hands together and march down the aisle to implement this policy. I want to commend the gentleman from Pennsylvania [Mr. WALKER] for raising this issue, and all the others that have participated in this debate to turn this amendment into a very workable policy which we all can join hands on.

Mr. TAUKE. Madam Chairman, will the gentleman yield?

Mr. JEFFORDS. Madam Chairman, I yield to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Madam Chairman, I thank the gentleman from Vermont for yielding. I would just like to urge Members to temper their remarks a little bit about this amendment. It seems to me the gentleman from Pennsylvania [Mr. WALKER] has been anything but some of the things described by the gentleman from New York [Mr. SCHUMER]. His motivation in my judgment has been quite pure. He has struggled mightily with this issue and has gone through several drafts of the amendment trying to come up with a good draft. I think, as the Members on the other side of the aisle have discovered as they attempted to draft an amendment, that it is very difficult to do in this area. I might just observe that one of the reasons why this side of the aisle is supporting the Kildee amendment is because of the drafting problems within the other amendment that was being offered by the gentleman from Louisiana [Mr. HAYES] and others on the other side of the aisle. That amendment among other things would have permitted very substantial use of drugs in the workplace. It said the only trigger for any cutoff of Federal funds was substantial use of drugs, which was an inadvertent, I presume inadvertent, endorsement of minimal use of drugs in the workplace or something less than substantial. I do not think that the people from the other side of the aisle really wanted to say that a little use of drugs in the workplace is OK, but it is indicative of some of the drafting problems that arise.

So before throwing a lot of stones at the gentleman from Pennsylvania [Mr. WALKER], because maybe he did not have a perfectly drafted amendment, I think we should recognize that the motivation was pure, and it is very difficult to draft language in this area. That is why the gentleman from Michigan [Mr. KILDEE] opted for the simpler rather than the more complex form, and why many of us did, too.

I suggest that we all calm down a little bit, recognize that everybody is well motivated, and that the gentleman from Pennsylvania [Mr. WALKER] has done us a favor by bringing the issue forward and I think something good is coming out of it.

Mr. HUNTER. Madam Chairman, will the gentleman from Vermont yield?

Mr. JEFFORDS. Madam Chairman, I yield to the gentleman from California.

Mr. HUNTER. Madam Chairman, I thank the gentleman for yielding. I want to echo the sentiments of my colleague from Iowa [Mr. TAUKE]. The realization that swept this Chamber is that we can use a workplace to eradicate the use of narcotics. We do that by motivating the people who have a financial interest in contracts and grants, and that is the private employer. That is the employer, the foreman, the bosses, the supervisors and the managers. We motivate them to control employees, and oversee the workplace, and that is done by putting this type of language in the bill. What I liked about the Kildee amendment is, as was explained by the author of the bill, it essentially does the same thing

as the Walker amendment provisions. It does the same thing with laws that are already in place that say that the grantee has to observe all the provisions of the contract he has made with the Federal Government and that now will include a policy against the use of narcotics in the workplace. So the gentleman from New York [Mr. SCHUMER] went off on a tangent about how terrible the Walker amendment was. The Kildee amendment essentially does the same thing. It deprives a grantee of his contract and his financial remuneration if he fails to keep a drug-free workplace. Theoretically he is going to have some time and be given leeway in establishing that policy but the end result is the same. Either they have a drug-free workplace or they are not allowed to have this particular grant and financial remuneration that accompanies it.

Let me say that some really crazy ideas have circulated around Capitol Hill recently. We have talked about shooting down airplanes that were loaded with narcotics, and we talked about legalizing narcotics. The gentleman from Pennsylvania [Mr. WALKER] comes up now with a very moderate and temperate approach that says we are the financial Government, we cut checks to these people, so let us have a drug-free workplace and use that leverage that we have with grantees to establish that policy.

Madam Chairman, I agree completely with the gentleman from Iowa [Mr. TAUKE] that this is a most moderate of proposals and now the train is moving and everybody is getting aboard and that is good. Let me commend the gentleman from Pennsylvania [Mr. WALKER] for having started this train, and the Walker amendments are going to be offered to a number of bills. I think it is one of the best things this Congress has done.

Mr. WALKER. Madam Chairman, will the gentleman from Vermont yield?

Mr. JEFFORDS. Madam Chairman, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Madam Chairman, I thank the gentleman for yielding, and I thank everybody for their nice words. I want to clarify that the fact is that what we are adopting here is language which broadens and yet implements that which we have been approving on previous appropriation bills.

The CHAIRMAN. The time of the gentleman from Vermont [Mr. JEFFORDS] has expired.

(By unanimous consent, Mr. JEFFORDS was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Madam Chairman, will the gentleman yield further?

Mr. JEFFORDS. Madam Chairman, I continue to yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. In all honesty, I cannot see how someone could vote against the Walker amendment on the appropriations bills and vote for this approach because they both go exactly the same kind of direction. We do understand around here that we have rules that we operate under and I am always amused when the other side will talk about these terrible amendments that have to come about because of the kinds of rules that they have on appropriations bills, and they vote for the rules. We do not.

We do have to try to live with those rules. So the gentleman from New York [Mr. SCHUMER] gets himself out of sorts based upon rules that we all have to operate under.

Finally, let me say that nothing in what we are doing is a Draconian or simple approach. I have never once suggested there was anything simple about this approach. It is a very complicated approach when we are saying to all employers that get Federal contracts that we are going to hold them to a standard, but the fact is we have done it to eliminate racism in this country, which was one of the most intractable problems, discrimination and racism. We have used that approach to do that. If drugs are also a high priority item, and many people suggest they are the highest priority item, it seems to me that approach that has worked in other areas can work here. It will not be simple. It will not be easy. There is nothing easy at all about trying to implement this but we do start by endorsing this concept. The Kildee amendment, it seems to me, helped us endorse the concept. It was far better than as the gentleman from Iowa [Mr. TAUKE] has pointed out before, the other amendment that would have been offered by the other side that did permit substantial use of drugs in the workplace. I thought that would send the wrong signal out there if we approved an amendment of that type. I am very pleased that we have another alternative and I look forward to helping the committee implement it.

Mr. JEFFORDS. Madam Chairman, reclaiming my time, I want to express my support to the gentleman from Michigan [Mr. KILDEE], and urge support of the Kildee amendment.

Mr. DURBIN. Madam Chairman, will the gentleman yield?

Mr. JEFFORDS. Madam Chairman, I yield to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Madam Chairman, I have been listening to this debate on the floor and this gushing acknowledgment of parentage here.

The CHAIRMAN. The time of the gentleman from Vermont [Mr. JEFFORDS] has again expired.

(By unanimous consent, Mr. JEFFORDS was allowed to proceed for 1 additional minute.)

Mr. DURBIN. Madam Chairman, will the gentleman from Vermont [Mr. JEFFORDS] yield further?

Mr. JEFFORDS. Madam Chairman, I yield further to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Madam Chairman, I could not restrain myself any longer to come forward and take some credit for this, also. This amendment appears to be a child who has so many proud parents that it cannot help but be a success in life, but I think the gentleman from Iowa [Mr. TAUKE] was correct earlier when he said that this amendment offered by the gentleman from Michigan [Mr. KILDEE] has been offered in the spirit of calmness and good motivation. I think it is important to note that the Kildee amendment strikes the Walker amendment in its entirety and, in fact, when it is all finished we will be dealing with the Kildee amendment, and I am sure the gentleman from Pennsylvania [Mr. WALKER] will take some pride in the fact that he has motivated us to move on this issue, but the fact is that the statute as it will read if finally enacted into law will be the language of the gentleman from Michigan [Mr. KILDEE]. I say three cheers for Mr. KILDEE. I was proud to vote against the Walker amendments to the appropriations bills. They were, in fact, very poorly written. They were half-baked suggestions in the name of fighting drugs in America. The American people deserve a lot more from Congress than that approach.

□ 1620

This amendment being offered by Mr. KILDEE is constructive. I think it shows that if we put in the time and effort we can come up with a work product we can be proud of.

Mr. JEFFORDS. Madam Chairman, I would like to say I supported the Walker amendment. I would like to say that I feel very happy about the situation right now, and let us hope we can progress toward a final resolution of this situation at this point.

Mr. VOLKMER. Madam Chairman, I move to strike the requisite number of words.

Mr. VOLKMER. Madam Chairman, I am here to express my consideration for all the Members who have worked on this issue, and I can well remember back I guess well over a month ago where the gentleman from Pennsylvania first brought up the issue in the Committee on Science, Space, and Technology, and it is the language that he at first proposed, I think, that was quite draconian and has been through a lot of changes as time went on.

As one who has worked with other Members of this House to try and develop practical language that would benefit the society of this country and

try to eliminate drugs from the workplace, I would like to first ask the gentleman from Pennsylvania, and I know he has been instrumental in bringing this issue, the idea at least, to my attention and to the attention of most Members of this body, and I would like to ask him a question. The question pertains to the language of the Kildee amendment which I understand the gentleman from Pennsylvania is now accepting as a substitute for his own language. If that is the case, would the gentleman be willing to accept that same language on the authorization bills for NASA, for the National Bureau of Standards, for the National Science Foundation which we have worked on in the Committee on Science, Space, and Technology, and he has language there, and some of us, including the gentleman from New York, the gentleman from California, and the gentleman from Louisiana and I have been working on alternative language trying to work something out that would be a little bit more broad to try and work out this, as the gentleman says, complex problem, because it is a complex problem.

I am concerned about what is going down the road. We are going to look at other authorization bills this whole year. Are we now going to come up and debate language on different bills?

I yield to the gentleman from Pennsylvania.

Mr. WALKER. Let me say to the gentleman that the reason the Kildee approach is acceptable here today is because the gentleman represented, has represented to me, and I am quite sure accurately, that the Justice Department already has in place under this particular act procedures for withholding funds based upon this kind of language. There is already a mechanism to do that which I am trying to accomplish, and I am not sure NASA has that kind of a procedure. If in fact we do have a process by which that can be done under the administrative procedures that exist there, this language might be acceptable. But I am not going to tell the gentleman off the top of my head that this is acceptable, because the bottom line is you have to have a mechanism in place to withhold moneys for noncompliance in order to make it acceptable to this gentleman. You have to have leverage that the contractors will respect, or you end up with merely a statement of policy that has no teeth.

Mr. VOLKMER. The language of the amendment can authorize——

Mr. WALKER. No.

Mr. VOLKMER. I mean, you can write that language in there to authorize them to do that.

Mr. WALKER. I would say to the gentleman that there is language in the bill now that says no funds may be expended, so the fact is that that is the mechanism, and in all honesty, some of the people on the gentleman's side of the aisle are not very happy about the idea of actually cutting off of money.

Mr. VOLKMER. I am talking about authorization bills. I am not talking about appropriation bills.

The other thing that concerned me is that by doing what we are actually doing here not only on this bill but what we have done on the appropriation bills and basically what we are doing piecemeal on each authorization bill is that we are going to eventually, if we pass this legislation and others like it, have maybe 10 percent of the total programs of the Congress covered, maybe 15, maybe 20 percent. Would it not be much better if we developed a Governmentwide legislation that pertains to all Government contracts and all Government grants that is uniform in its application?

Mr. WALKER. Yes. That is fine.

Mr. VOLKMER. Do you agree with that, gentlemen?

Mr. WALKER. Sure. I think that would be fine. I do not have a problem with that. In fact, I have introduced a general bill as well, but I would say to the gentleman——

Mr. VOLKMER. Do not go talking about that, because I know that you do not really like that bill.

Mr. WALKER. But I would say to the gentleman that there is also the way of covering 100 percent of the Federal programs, and that is by doing on the appropriation bills what this gentleman has been doing. One reason for offering language to the appropriation bills was to assure that there would be coverage of virtually all Federal programs, because there would be language that then would have to be fleshed out by the agencies themselves, and that is what this gentleman has been doing. I think we are going to get 100-percent coverage that way.

Mr. VOLKMER. The gentleman recognizes, I am sure, and most Members here, even though I voted for that language——

The CHAIRMAN. The time of the gentleman from Missouri has expired.

(By unanimous consent Mr. VOLKMER was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. For the reason that something is better than nothing, I think the gentleman will recognize that the language in the appropriation bills by itself is not sufficient really to flesh out the total program that needs to be fleshed out.

Mr. WALKER. Madam Chairman, will the gentleman yield?

Mr. VOLKMER. I am happy to yield to the gentleman.

Mr. WALKER. Madam Chairman, the gentleman is right, but this gentleman has never presented a statement which says that it was the full program fleshed out. What this gentleman has always said is it was conceptual, that it amounted to a funds cutoff where one did not have drug-free workplaces but understood that there had to be put in place a policy. I have introduced a policy concept as to how that could be done so that agencies would have some guidelines. This gentleman recognizes the fully, but if one wants to get 100-percent coverage, the way we get 100-percent coverage is to have a concept embraced by all the appropriation bills.

Mr. VOLKMER. But what we are going to end up with now, as yet, is different language on different authorization bills, and we are not going to have a uniform application.

Mr. WALKER. There are different programs around here for nutrition for the elderly, for example, and each one of them has a little something which is a little bit different. That is no problem.

Mr. JEFFORDS. Madam Chairman, will the gentleman yield?

Mr. VOLKMER. I am happy to yield to the gentleman.

Mr. JEFFORDS. By the end of this month I believe both sides of the aisle are attempting to come up with a bill to deal with the drug issue in its entirety. The gentleman has my commitment, and I am sure he has the commitment of Mr. KILDEE and others on the other side that we would like to see a uniform policy worked out, especially in these kinds of programs, and that the gentleman certainly has my commitment—and I commend both the gentleman and the gentleman from Pennsylvania again—so that we can work together to find a common solution to all of these so that we do not have a whole bunch of different solutions to the various problems. I think the gentleman has a good point, and I would hope by the end of this month we can work out a rational solution to all of these similar problems.

Mr. HAYES of Louisiana. Madam Chairman, I move to strike the last word.

Complex issues do not have sides, they have facets. What we have observed this afternoon is that when we have people who engage in a meaningful discussion, we have not so much confrontation as we get to see the opportunity for different approaches.

Over a month ago when the gentleman from Pennsylvania offered language at the Committee on Science, Space, and Technology and the subcommittee level, my disagreement was not with him from the other side but from the perspective of recognizing some problems with the language and offering the view that engaged those additional facets. What we have seen this afternoon is a House of Representatives that is in concert in understanding that the intent to stop drugs in the workplace is one which we can all embrace.

What we have got to get is not tough but smart. Our opponents are tough. Our opponents are much tougher than we will ever be, using methods we cannot legally use. Due process does not mean a great deal in small sidestreets in Miami. It does, however, provide the cornerstone for the Constitution of the United States, and it is the tool by which this body, if it is smart enough, can react and outman those who are street smart and who are tougher.

What can we do? We can do the right thing as those who send you to Congress by voting always tell you, that when you get here, do the right thing. The right thing is to take the legislation and to do those things which you have knowledge of, and to add to that information from Government Operations, with people who understand Executive orders with which you might not be familiar, you join with the Committee on the Judiciary with those who understand some of the recent Supreme Court decisions on due process with which you may not be familiar, and with those who are familiar with administrative law procedures, and you work toward a final product that can be embraced as the intent and the will of the Congress, and all of that takes a great deal of time and dedication.

What has occurred this afternoon is that Mr. KILDEE has synthesized that intent into a single paragraph which we can support, and what is left for us to do in the upcoming weeks is to put in the procedures by which we can conform it to the Constitution, preserving the rights of the individual, and which by being smart, we take dead aim at those who would distribute drugs, those who would use them is the workplace and provide both a forum and an opportunity to do as we said—the right thing.

□ 1630

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. KILDEE], as modified, to the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment, as modified, to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER], as amended.

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. JEFFORDS. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 382, noes 0, not voting 49, as follows:

[Roll No. 160]

AYES—382

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Bellenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Billey
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fields
Fish
Flake
Flippo
Florio
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Quillen
Rahall
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stratton
Studds
Stump
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)

NOT VOTING—49

Badham
Berman
Biaggi
Bosco
Boulter
Buechner
Bustamante
Cheney
Coelho
Crockett
Duncan
Feighan
Foglietta
Foley
Frenzel
Gallo
Garcia
Gray (IL)
Hansen
Inhofe
Jones (TN)
Kemp
Konnyu
Latta
Lent
Lewis (CA)
Mack
MacKay
Markey
Martin (IL)
McGrath
Mica
Moody
Mrazek
Ortiz
Pursell
Rangel
Ray
Roberts
Rose
Spence
Stokes
Sundquist
Taylor
Udall
Vento
Weiss
Wilson
Young (AK)

□ 1649

Mr. SWIFT changed his vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the title, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. MURTHA] having assumed the chair, Mrs. SCHROEDER, 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. 1801) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1989 through 1992, pursuant to House Resolution 442, she reported the bill back to the House with an amendment

adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. MURTHA). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. 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 pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KILDEE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 377, noes 5, not voting 49, as follows:

[Roll No. 161]

AYES—377

Ackerman
Akaka
Alexander
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fields
Fish
Flake
Flippo
Florio
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
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Holloway
Hopkins
Horton
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Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Quillen
Rahall
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stratton
Studds
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)

NOES—5

Armey
Crane
Dannemeyer
DeLay
Stump

NOT VOTING—49

Anderson
Badham
Berman
Biaggi
Boulter
Buechner
Bustamante
Cheney
Coelho
Crockett
Duncan
Feighan
Foglietta
Foley
Frenzel
Gallo
Garcia
Gephardt
Gray (IL)
Hansen
Inhofe
Jones (TN)
Kemp
Konnyu
Latta
Lent
Lewis (CA)
Mack
MacKay
Markey
Martin (IL)
McGrath
Mica
Moody
Ortiz
Pursell
Rangel
Ray
Roberts
Rose
Spence
Stokes
Sundquist
Taylor
Udall
Vento
Weiss
Wilson
Young (AK)

□ 1707

The Clerk announced the following pair:

On this vote:

Mrs. Martin of Illinois for, with Mr. Frenzel against.

Mr. BONKER changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING CORRECTIONS IN ENGROSSMENT OF H.R. 1801, JUVENILE JUSTICE AND DELINQUENCY PREVENTION AMENDMENTS OF 1988

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1801, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 1801.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1801, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2470, MEDICARE CATASTROPHIC PROTECTION ACT OF 1987, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-663) on the resolution (H. Res. 463) waiving certain points of order against the conference report on the bill (H.R. 2470) to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes, and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

AUTHORIZING ESTABLISHMENT OF PLANT STRESS AND WATER CONSERVATION RESEARCH LABORATORY AT LUBBOCK, TX

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1652) to authorize the establishment by the Secretary of Agriculture of a plant stress and water conservation research laboratory and program at Lubbock, TX, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1652

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

SECTION 1. ESTABLISHMENT OF PLANT STRESS AND WATER CONSERVATION RESEARCH LABORATORY AND PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 1431(a) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99-198; 99 Stat. 1556), there are authorized to be appropriated such sums as may be necessary for the planning, construction, and acquisition by the Secretary of Agriculture acting through the Agricultural Research Service, of buildings and equipment to establish at Lubbock, Texas, a laboratory and program for plant stress and water conservation research.

(b) AVAILABILITY OF FUNDS.—Funds appropriated under subsection (a) shall remain available for expenditure without fiscal year limitation.

SEC. 2. COLLEGE-AID ANNUAL APPROPRIATION.

Section 5 of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 326a) is amended to read as follows:

"SEC. 5. There is appropriated annually, out of funds in the Treasury not otherwise appropriated, for payment to the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands or its successor governments the amount they would be entitled to receive under this Act if they were States. Sums appropriated under this section shall be treated in the same manner and be subject to the same provisions of law, as would be the case if they had been appropriated by the first sentence of section 1."

SEC. 3. EFFECTIVE DATE.

This Act shall take effect on October 1, 1987.

Mr. DE LA GARZA. Mr. Speaker, I urge the Members of the House to support passage of S. 1652. This bill is nearly identical to H.R. 2663, a bill which my colleagues from Texas, Messrs. COMBEST and STENHOLM, and I introduced nearly a year ago.

H.R. 2663, which passed the House, and S. 1652, would authorize the establishment of a plant stress and water conservation laboratory in Lubbock, TX, to further much needed research on the effects of drought and other environmental stresses on agricultural production. The Senate has made only minor, technical changes in the House-passed bill. Given the extended period of drought that is now affecting our State, the laboratory and research program authorized by S. 1652 is extremely timely.

In addition to authorizing the establishment of the plant stress lab, S. 1652 includes an amendment to the Morrill Act which ensures that an existing program of research affecting the Pacific and Carribean insular areas continue to be funded. We have no objections to this amendment, which was added to the Senate bill at the request of Senators JOHNSTON and MCCLURE.

Mr. Speaker, this bill has been cleared with our minority counterparts on the committee. I move its immediate adoption.

Mr. STENHOLM. Mr. Speaker, I rise in strong support of S. 1652, a bill to authorize the construction of a new Department of Agriculture [USDA] plant stress and water conservation research laboratory at Texas Tech University in Lubbock, TX. Such a research facility is urgently needed to house the existing cooperative research program in plant stress and water conservation, currently fragmented between laboratories on the Texas Tech campus and temporary buildings owned by the U.S. Department of Agriculture and located 10, miles from the campus. This research program seeks to achieve genetic crop improvement for environmental extremes such as drought and high temperature, and is pursuing an understanding of cropping systems that conserve water and prevent further depletion of nonrenewable underground water supplies such as the Ogallala Aquifer.

Recognizing that all interested parties directly associated with the legislation have followed the proper legislative process, I believe that the intent of section 1431(a) of the Food Security Act of 1985 has been carefully adhered to. In addition, I would quickly point out that this is not a research program which was put together overnight. In fact, planning for a plant stress and water conservation research laboratory was initiated as a result of a 1959 Senate report, Senate document 59. Furthermore, discussions continued between Members of Congress and administrators of USDA that resulted in an appropriation of $100,000 in fiscal 1977 for a feasibility study by a blue ribbon committee of distinguished scientists appointed by the Department of Agriculture. This committee visited many sites including Lubbock, and concluded in the feasibility report to Congress that Lubbock would be the most ideal location for such a facility.

The architectural plans for this facility have already been funded and completed, a long-term land lease involving both Texas Tech and USDA has been negotiated. Moreover, this program, with excellent State and USDA research personnel has maintained a plausible momentum over the last 10 years. The actual construction of such a facility is in keeping with the thrust of cost-sharing and will enjoy a significant university investment.

Therefore, Mr. Speaker, the time has come to appropriate the moneys required to construct the plant stress and water conservation research laboratory at Lubbock, TX.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

RESIGNATION FROM COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

The SPEAKER pro tempore laid before the House the following resignation from the Committee on Standards of Official Conduct:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 2, 1988.

Hon. JIM WRIGHT,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: Confirming my letter to the Minority Leader, the Honorable Bob Michel, a copy of which is attached, I submit today my resignation as a member of the House Committee on Standards of Official Conduct.

With best wishes, I am,

Sincerely,

FLOYD D. SPENCE,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

CANCER IN McFARLAND

(Mr. DYMALLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DYMALLY. Mr. Speaker, the Reverend Jesse Jackson has once more brought to our attention a serious problem in the farm community of McFarland, in the Central Valley of California. So far 8 children have died of cancer, and 22 more are suffering from this dreadful disease.

There are those who believe this situation may have been caused by pesticides in the water.

Mr. Speaker, this matter calls for a congressional investigation, and I call on the appropriate committee to begin a study of this issue.

At this point in the RECORD I include the following:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 1, 1988.

Hon. HENRY A. WAXMAN,
Chairman, Subcommittee on Health and the Environment, Committee on Energy and Commerce, Washington, DC.

DEAR MR. CHAIRMAN: Your attention is brought to the attached news article which appeared in the Los Angeles Times, Saturday, May 28, 1988.

The article deals with the unusually high incidence of cancer among children in McFarland, California.

I wish to highly recommend that your subcommittee conduct an investigation of this very serious problem.

Thanks in anticipation for your favorable response.

With very best wishes.

Sincerely,

MERVYN M. DYMALLY,
Member of Congress.

JACKSON TO PUT CAMPAIGN FOCUS ON CANCER CLUSTER TOWN

(By Ron Harris)

MCFARLAND, CALIF.—In this farming community 20 miles from Bakersfield, parents try hard to keep their children from drinking the water. They think it carries death.

So far, eight McFarland children have died of cancer and 22 others have been diagnosed with several different kinds of cancer, with most of the cases occurring within a few blocks of each other in a mostly Latino neighborhood. Neighborhood residents, mostly farm workers whose homes are built on what were once cotton fields, believe the so-called cancer cluster is caused by pesticides in the water.

The Rev. Jesse Jackson apparently believes so too. Although he is in the midst of his campaign for California's June 7 presidential primary, Jackson has decided to devote an unusual amount of time on this one town of 6,200 residents. In effect, he is making it the focus of his campaign in an effort to draw attention to McFarland and to three other communities that have reported cancer clusters—nearby Delano, Rosamond in Kern County and Fowler in Fresno County.

PLANS FOR MARCH

Jackson, who spent the night here Wednesday talking with parents of victims and elected officials about the problem, is planning a march through the city next Saturday. He is trying to enlist the support of elected officials, environmentalists and celebrities to highlight the problem, which has plagued McFarland since 1982.

During Jackson's overnight stay here with Ernesto and Tina Bravo, whose child died from cancer, residents complained that local and state officials have abandoned them. They said they have complained about the water and how their children are getting sick and dying, but have received little responses. Health officials have said that the cancer rate for children in McFarland is five times the normal level, but they do not know the cause.

In many ways, Jackson said, McFarland is a metaphor for his campaign, and that is why he has chosen to make it a rallying point.

"You have the combination of a number of issues all in what appears to be one issue," he said in an interview Thursday aboard his plane. "One, you have the question of the environment. People in New York and Washington, D.C., are eating the food that comes from these fields while the people who pick the food are dying. . . . Everybody who eats must be concerned about cancer clusters from the food basket.

"Then there is a question of fair representation. While a third of the population of McFarland is Hispanic, there is only one Hispanic elected official. That's very suggestive. Only 7% of the Hispanic population is registered to vote. That suggests that they have been disenfranchised to the point of being discouraged. . . . These are people who have been abandoned."

The pesticide DBCP (dibromochloropropane), which laboratory tests have linked to cancer, has been found in well water in McFarland. A soil fumigant, DBCP was banned from agricultural use a decade ago, but it remains for long periods in the soil and has been detected in more than 2,000 wells throughout California.

While health officials have said they do not believe that is the problem, McFarland residents contend that the fumigants have been seeping into wells and are affecting their children.

"Nobody drinks the water," said Lucy Nadal, a tutor at a school in McFarland. "Not if you can help it. We're all afraid. We're afraid for our children. Our children are afraid."

Nadal's daughter, 12, was best friends with Mario Bravo, 14, who died Thanksgiving Day of cancer.

"He was there, and then one day he was gone," she said. "I'm scared that it might happen to me."

Dan Shepherd, 40, of Fowler, stood nearby, his blond 8-year-old daughter, Jennifer, hugging her father's leg. She and four other children in the town of 2,000 were diagnosed with leukemia in another "cluster." Her case is in remission, her father said; the other four children have died.

Jackson is suggesting, as have some McFarland officials, that a health clinic be built in the community and that a congressional investigation be made.

"One of the problems now is that every time a child has any kind of ache, the parents are worried that it might be cancerous," he said. "If they dismiss it as non-cancerous, there's a chance that they may miss out on early detection. But if they go to the doctor for every pain and ache, it's too expensive."

Jackson's emphasis on McFarland is a questionable strategy. He trails far behind Massachusetts Gov. Michael S. Dukakis in statewide polls and has recently been making fewer campaign stops and drawing smaller crowds.

"You can't separate your strategy from your principal commitment to serve people," he said. "If the campaign comes and goes, and you only get votes for the candidate without getting help for the people, that's a worthless campaign. . . .

"For me, it's the politics of moral principle. The other extreme is to go all over the state and make footprints but not make penetration. We want to make a difference."

PROPERTY TAXES AND THE VICE PRESIDENT

(Mr. FLORIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. FLORIO. Mr. Speaker, there is probably no subject that gets the attention of voters and officeholders more than taxes. The mere mention of the word can quiet a room, as people listen intently to hear how much they are going to have to pay.

In my State, New Jersey, if you put the word "property" in front of taxes you get more than attention. You are thrust into a serious debate about how best to pay for necessities of life, such as education.

That is why those of us from New Jersey were distressed this morning to pick up a newspaper and see that the Vice President of the United States is talking about increasing our property taxes. In an article by the Associated Press, the Vice President, in rejecting any call for a Federal income tax increase, acknowledged that local school taxing authorities might have to increase their levies to pay for some of the programs he would want as President.

In New Jersey we have some important decisions to make about sharing the burden so that we can grow and prosper together, not as a State of haves and have-nots. So it is distressing to hear that one candidate for President appears to be looking for more ways to make our tax system less fair and reasonable—instead of helping us do what is right.

BUSH SAYS HE'D REJECT CALL FOR ANY FEDERAL TAX INCREASE

(By Tom Raum)

KENNEBUNKPORT, ME.—Vice President Bush said yesterday that he would reject any call for a federal tax increase, even if one came from a bipartisan federal commission of experts working on ways to trim the huge federal deficit.

However, he also said that higher local school taxes might be needed to carry out his education policies.

Bush, who has already accumulated enough delegates to win the Republican presidential nomination, met with a group of private economic advisers, then spoke with reporters in a meeting hall in this oceanside town where he has a vacation home.

The group included Harvard economist Martin S. Feldstein, a former chairman of President Reagan's Council of Economic Advisers, and Stanford economist Micheal J. Boskin. They are among the economic advisers that Bush most frequently consults.

Feldstein quit his White House post after his advocacy of tax increases to reduce the federal deficit ran afoul of the Reagan administrations' no-new-taxes policy.

In response to a reporters' question, Bush said he would reject the notion of a tax increase even if it were part of the recommendations of the commission formed earlier this year to find ways to trim the defict. The panel, which includes administration appointees as well as members appointed by Democratic and Republican congressional leaders, is scheduled to present its findings next year.

"It seems to me that commission might well come up with a tax increase," Bush said. "And I'll be saying, wait a minute, I've taken my case to the American people to hold the line on taxes.

"I would be interested in their views, but not persuaded" if a tax increase was included, Bush said.

However, the vice president, who has told audiences he wants to be the "education president" and has stressed educational issues in this campaign, was asked if local school taxing authorities might have to increase taxes to carry out some of the still-unspecified programs he envisions.

"They may have to," Bush said. "Ninety-three percent of the money for education comes from sources other than the federal government. If its' taxes, that's where it has to be. It isn't going to be at the federal level, absolutely."

On another economic subject, Bush cautioned the Federal Reserve Board against tightening credit too much saying, "I don't want to see action taken that's going to shut down economic growth."

Declaring that he had full confidence in Federal Reserve Chairman Alan Greenspan, Bush said he nevertheless wanted to voice "a word of caution."

The Federal Reserve in recent weeks has been slightly tightening credit in the hope that nudging interest rates upward will keep inflation in check.

Bush said of Fed policymakers, "I think they are putting a great emphasis on inflation. Whether its' too much, I don't know. . . . Its' a tough balancing thing."

Bush had said over the weekend that his campaign was running low on cash and that it might have to curtail some travel plans after the June 7 California primary.

He has raised the maximum allowed by law for pre-convention spending. Aide Robert Teeter said yesterday that, of the $29.5 million raised so far, including $7 million in federal matching funds, less than $1.5 million was left.

THE ALBANY ACADEMY, 175 YEARS OLD

The SPEAKER pro tempore (Mr. MURTHA). Under a previous order of the House, the gentleman from New York [Mr. STRATTON] is recognized for 5 minutes.

Mr. STRATTON. Mr. Speaker, I rise today to bring to the attention of my colleagues in Congress the 175th anniversary of one of the finest private academies for boys in New York State, the Albany Academy.

The Albany Academy for boys was granted a charter by Albany Mayor Stephan Van Rensselaer and the Albany City Council on March 4, 1813. During the past 175 years, the academy has developed a strong reputation for graduating exemplary young men who have gone on to establish themselves among our Nation's leaders in business, government, arts, sciences, and humanities.

Among the academy's most noted graduates are: William Rose Benet, winner of the 1942 Pulitzer Prize for Poetry for his autobiographical narrative, "The Dust Which is God"; Joseph Henry, whose work in sciences pioneered the field of electromagnetism and who later became the first Secretary and Director of the Smithsonian Institute in Washington; Herman Melville, author of the literary classic, "Moby Dick"; Judge Learned Hand, a strong defender of free speech who gained the reputation as the "10th judge," for his many decisions and pronouncements, although he never served on the Supreme Court.

Many changes in the Albany Academy have come about since its inception. But the commitment to preparing young men for future leadership remains paramount. The constants at the Albany Academy remain clear and unswerving: sound academic achievement, solid athletic involvement, and strong military discipline.

It is with great pride that I congratulate the Albany Academy on its 175 years of successes and encourages the gentlemen pursuing their studies within the building adorned by the symbolic Fish and Pumpkin to carry on in the spirit of their predecessors who shaped the Albany Academy into the outstanding institution it is today.

DRUG-FREE WORKPLACES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, today I am introducing legislation to require Federal contractors and grantees to take affirmative action to maintain drug-free workplaces.

Under this bill, Government grants and contracts will be terminated, and contractors and grantees suspended and debarred from future business if they do not act to create and maintain a drug-free environment at their worksites. These are tough sanctions, but fairly applied through an existing system of procedures which complies with due process required under our system of law. This bill is a strong, coherent, workable measure that will add a new weapon in the Federal Government's war on drugs.

Under the terms of the legislation, Federal contractors or grantees can be sanctioned by the termination of their contract or grant and their suspension and debarment from future Federal business if they fail any of five specific requirements.

First, they must certify that they have published a statement of policy prohibiting the unlawful manufacture, distribution, dispensation, or possession of a controlled substance while in the workplace.

They must assure that all employees engaged in the performance of the Federal grant or contract have certified that they understand and will abide by that policy and will notify the employer if they are convicted of a criminal drug offense occurring at the workplace.

The contractor or grantee must notify the Government of any such conviction.

The contractor or grantee must fire that employee or provide him or her with drug rehabilitation through an approved program.

Finally, the contractors or grantees may have their contract or grant terminated and they may be suspended and debarred from future Government business if such a substantial number of employees have been convicted of drug statute violations occurring in the workplace that it is clear they are failing to provide a drug-free workplace.

Failure to meet any of these requirements triggers the existing rules and procedures that govern contract and grant matters. Termination of contracts and the suspension and debarment of contractors will be handled through the boards of contract appeals at the various agencies.

Judicial review is maintained in the Federal circuit. The suspension and debarment of grantees is handled under existing law. These procedures provide the necessary due process that must accompany the Government's imposition of such severe sanctions. They will assure that Government contractors and grantees are treated openly and fairly.

In this climate of "stop drugs at any cost," the presumption of innocence doctrine, which is the hallmark of our democracy, seems to have been forgotten. We must not let this happen. My legislation provides tough sanctions, while protecting the rights of Government contractors and grantees and the tens of thousands of employees who work for them.

□ 1710

MANDATORY DRUG AND ALCOHOL TESTING

The SPEAKER pro tempore (Mrs. SCHROEDER). Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, today, I enter into special orders to discuss the importance of ensuring that Congress support legislation to mandate drug and alcohol testing of all persons involved in safety sensitive positions in the aviation, rail and motor carrier industries.

H.R. 3051, the Airline Passenger Protection Act has passed both bodies and is awaiting action by conferees. The other body has overwhelmingly approved provisions amended to this airline bill that provide testing for the illegal use of drugs or alcohol by operators of aircraft, railroads, and commercial motor vehicles. This language would require five types of testing, including random, preemployment, post-accident, periodic recurring and upon reasonable suspicion.

Congress has voted in favor of this method of freeing our modes of public transportation of accidents resulting from impaired operators and crew members under the influence of drug or alcohol. However, we now need favorable action by the conferees to the Airline Protection Conference to retain important and necessary language. We are experiencing a prolonged delay for conferees to meet and agree on this important drug free language. To date the conferees have failed to meet.

Any further delay only places the traveling public at greater risk of being involved in a transportation-related accident as a result of the Government's failure to require mandatory drug and alcohol testing of our transportation operators. It has been made clear through the media that the American people consider fighting the war on drugs as one of the most important objectives facing this

Nation. The conferees can help carry out this objective through their commitment to meet and agree on mandatory drug and alcohol testing.

My home congressional district in the Second District of Maryland where just over a year ago, we experienced one of the worst railroad accidents in American history. The Amtrak/Conrail collision resulted in the death of 16 innocent passengers, the injury of nearly 200 and $14 to $15 million in damages. This tragic accident could have very well been avoided if there had been mandatory drug and alcohol testing required of rail operators and crew members.

It has been determined by the National Transportation Safety Board that the probable cause of the Amtrak/Conrail accident was the result of impairment from marijuana smoked by the engineer and another crew member of the Conrail engine. Because of his drug impairment the engineer failed to stop his train in compliance with a home signal. The Conrail engine was hit by the passenger Amtrak train because Conrail was on the wrong track.

A grand jury for the district of Maryland issued a four-count indictment to the Conrail engineer who was involved in the collision at Chase, MD, with the Amtrak train. The indictment alleged that the defendant falsely stated that he had not consumed any drugs on the day of the incident when, in fact, he had shared a marijuana cigarette with the brakeman while operating the engine.

This sort of situation is preventable with the enforcement of mandatory testing of substance abuse by transportation safety employees. However, we need the support of the Congress to ensure that we have laws to protect the safe travel on public transportation. When government fails to support laws designed to free the traveling public from physical harm it is neglecting to perform its duty and allowing illegal activity to go undetected. This places a great number of innocent people at risk of personal injury and loss of life.

Whenever individuals board an airplane, train, or motor carrier, they put their lives into the hands of those who have been entrusted to get them safely to their place of destination. This trust relies upon the vigilance of trained employees to remain alert at all times. The potential for catastrophic disaster created by those who abuse alcohol and illegal drugs while working in safety sensitive transportation positions mandates that every effort be made to eliminate the cause of threat.

There have been incidents of illegal drug use by employees of the aviation and motor carrier industries. A 1986 study by the Insurance Institute for Highway Safety showed that of a random sample of 300 truck drivers, some 18 percent tested positive for the presence of controlled substances or alcohol. The Federal Aviation Administration [FAA] has also reported that a number of FAA air traffic controllers have been found within the last year to have been using marijuana and cocaine.

A significant number of transportation employees in safety sensitive positions work with little, if any, direct supervision. Therefore, a strong deterrent, such as the threat of being detected and sanctioned for drug and alcohol use, is particularly needed.

Because of potential dangers involved in allowing persons employed in transportation safety, it is imperative that we have laws to prevent tragic accidents from occurring.

Enactment of mandatory drug and alcohol testing has the potential of saving countless lives from an early and unexpected death or serious personal injury. It is clear that mandatory provisions serves the interests of the greater public to free society of the ills attributed to substance abuse.

Drug and alcohol substance abuse contributes to countless problems which plague our society. These problems range from all forms of violent crime, fatal and costly accidents, family separations, threats to our national security, poorer worker performance which weakens our national competitiveness and many other serious and often irreversible side-effects.

It is imperative that drug testing language included in the Airline Protection Act be retained and approved by Congress for consideration by the White House. Enactment of this necessary legislation will serve as a deterrent to illegal use of drugs and alcohol. As a result of this legislation, the public will travel under more safe conditions and we will become more effective in the fight against illegal drugs in our society.

□ 1720

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MACKAY] is recognized for 60 minutes.

Mr. MACKAY. Mr. Speaker, due to a previous commitment I missed several votes. Had I been able to vote, I would have voted for the conference report on H.R. 1212, for the Walker amendment to H.R. 1801 and for final passage of H.R. 1801.

I appreciate having this opportunity to state my position on these measures.

CONFERENCE REPORT ON H.R. 2470

Mr. ROSTENKOWSKI submitted the following conference report and statement on the bill (H.R. 2470) to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes:

CONFERENCE REPORT (H. REPT. 100-661)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2470) to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the medicare program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Catastrophic Coverage Act of 1988".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act 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.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; references in Act; table of contents.

TITLE I—PROVISIONS RELATING TO PART A OF MEDICARE PROGRAM AND SUPPLEMENTAL MEDICARE PREMIUM

Subtitle A—Expansion of Medicare Part A Benefits

Sec. 101. Expanding scope of benefits under part A.

Sec. 102. Deductibles and coinsurance under part A.

Sec. 103. Part A premium for medicare buy-ins.

Sec. 104. Effective dates, transition, and conforming amendments.

Subtitle B—Supplemental Medicare Premium

Sec. 111. Imposition of supplemental medicare premium.

Sec. 112. Establishment of Federal Hospital Insurance Catastrophic Coverage Reserve Fund.

Sec. 113. Study of tax incentives for purchase of coverage for long-term care.

TITLE II—PROVISIONS RELATING TO PART B OF THE MEDICARE PROGRAM AND TO MEDICARE SUPPLEMENTAL HEALTH INSURANCE

Subtitle A—Expansion of Medicare Part B Benefits

Sec. 201. Limitation on medicare part B cost-sharing.
Sec. 202. Coverage of catastrophic expenses for prescription drugs and insulin.
Sec. 203. Coverage of home intravenous drug therapy services.
Sec. 204. Coverage of screening mammography.
Sec. 205. In-home care for certain chronically dependent individuals.
Sec. 206. Extending home health services.
Sec. 207. Research on long-term care for medicare beneficiaries.
Sec. 208. Study of adult day care services.

Subtitle B—Medicare Part B Premium and Financing

Sec. 211. Adjustments in medicare part B premium.
Sec. 212. Establishment of Federal Catastrophic Drug Insurance Trust Fund; fund transfers.
Sec. 213. Creation of Medicare Catastrophic Coverage Account.

Subtitle C—Miscellaneous Provisions

Sec. 221. Changes in certification of medicare supplemental health insurance policies.
Sec. 222. Adjustment of contracts with prepaid health plans.
Sec. 223. Mailing of notice of medicare benefits and information describing participating physician program.
Sec. 224. Changes in civil money penalties for certain practices of health maintenance organizations and competitive medical plans.

TITLE III—PROVISIONS RELATING TO THE MEDICAID PROGRAM

Sec. 301. Requiring medicaid buy-in of premiums and cost-sharing for indigent medicare beneficiaries.
Sec. 302. Coverage and payment for pregnant women and infants with incomes below poverty line.
Sec. 303. Protection of income and resources of couple for maintenance of community spouse.

TITLE IV—UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE, OBRA TECHNICAL CORRECTIONS, AND MISCELLANEOUS PROVISIONS

Subtitle A—United States Bipartisan Commission on Comprehensive Health Care

Sec. 401. Establishment.
Sec. 402. Duties.
Sec. 403. Membership.
Sec. 404. Staff and consultants.
Sec. 405. Powers.
Sec. 406. Report.
Sec. 407. Termination.
Sec. 408. Authorization of appropriations.

Subtitle B—OBRA Technical Corrections

Sec. 411. Technical corrections to certain health care provisions in the Omnibus Budget Reconciliation Act of 1987.

Subtitle C—Miscellaneous Provisions

Sec. 421. Maintenance of efforts.
Sec. 422. Rate reduction for medicare eligible Federal employees.
Sec. 423. Study and reports by the Office of Personnel Management on offering medicare supplemental plans to Federal medicare eligible individuals, and other changes.
Sec. 424. Benefits counseling and assistance demonstration project for certain medicare and medicaid beneficiaries.
Sec. 425. Case management demonstration projects.
Sec. 426. Extensions of expiring provisions.
Sec. 427. Medicare home health care denial of benefits advisory committee.
Sec. 428. Prohibition of misuse of symbols, emblems, or names in reference to Social Security or Medicare.
Sec. 429. Demonstration projects with respect to chronic ventilator-dependent units in hospitals.

TITLE I—PROVISIONS RELATING TO PART A OF MEDICARE PROGRAM AND SUPPLEMENTAL MEDICARE PREMIUM

SUBTITLE A—EXPANSION OF MEDICARE PART A BENEFITS

SEC. 101. EXPANDING SCOPE OF BENEFITS UNDER PART A.

Section 1812 (42 U.S.C. 1395d) is amended—

(1) in subsection (a), by striking paragraphs (1) through (4) and inserting the following:

"(1) inpatient hospital services;

"(2) extended care services for up to 150 days during any calendar year;

"(3) home health services; and

"(4) in lieu of certain other benefits, hospice care with respect to the individual during up to two periods of 90 days each, a subsequent period of 30 days, and a subsequent extension period with respect to which the individual makes an election under subsection (d)(1).";

(2) by amending subsection (b) to read as follows:

"(b) Payment under this part for services furnished to an individual may not be made for—

"(1) extended care services furnished to the individual during a calendar year after such services have been furnished to the individual for 150 days during that year, or

"(2) inpatient psychiatric hospital services furnished to the individual after such services have been furnished to the individual for a total of 190 days during his lifetime.";

(3) by amending subsection (c) to read as follows:

"(c)(1) If an individual is an inpatient of a psychiatric hospital on the first day of medicare entitlement (as defined in paragraph (4)(A)) payment may not be made under this part during the period described in paragraph (2) for inpatient mental health services (as defined in paragraph (4)(B)) in excess of the number of days specified in paragraph (3).

"(2) The period described in this paragraph—

"(A) begins on the first day of medicare entitlement, and

"(B) ends at the end of the first period of 60 consecutive days thereafter on each of which the individual is not receiving inpatient mental health services.

"(3) The number of days specified in this paragraph for an individual is 150 days less the number of days (during the 150-day period immediately before the first day of medicare entitlement) during which the individual was an inpatient of a psychiatric hospital.

"(4) In this subsection:

"(A) The term 'first day of medicare entitlement' means, for an individual, the first day of the first month for which the individual is entitled to benefits under this part.

"(B) The term 'inpatient mental health services' means—

"(i) inpatient psychiatric hospital services, and

"(ii) inpatient hospital services for an individual who is an inpatient primarily for the diagnosis or treatment of mental illness.";

(4) in subsection (d)—

(A) in paragraph (1), by striking "and one subsequent period of 30 days" and inserting ", a subsequent period of 30 days, and a subsequent extension period", and

(B) in paragraph (2)(B), by inserting "or a subsequent extension period" after "30-day period";

(5) in subsection (e), by striking "post-hospital", and

(6) by striking subsections (f) and (g).

SEC. 102. DEDUCTIBLES AND COINSURANCE UNDER PART A.

Section 1813 (42 U.S.C. 1395e) is amended—

(1) by amending paragraphs (1) through (3) of subsection (a) to read as follows:

"(1)(A) Subject to subparagraph (C), the amount payable for inpatient hospital services furnished to an individual during the individual's first period of hospitalization to begin during a calendar year shall be reduced by a deduction equal to the inpatient hospital deductible for that year or, if less, the charges imposed with respect to such individual for such services, except that, if the customary charges for such services are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed.

"(B) For purposes of subparagraph (A), the term 'period of hospitalization' means, with respect to an individual, the period beginning on the first day the individual is furnished inpatient hospital services and ending on the individual's date of discharge (as established by the Secretary for purposes of section 1886) from the hospital (or, in the case of a transfer, hospitals) involved.

"(C) In the case of an individual with respect to whom—

"(i) a period of hospitalization begins during December of any calendar year,

"(ii) an inpatient hospital deductible is imposed with respect to such period of hospitalization, and

"(iii) a period of hospitalization begins during January of the following calendar year,

no inpatient hospital deductible shall be imposed with respect to a period of hospitalization beginning in January of such following year (but such period of hospitalization shall not be taken into account in determining the application of an inpatient hospital deductible for any period of hospitalization beginning for such individual after January 31 of such following year).

"(D) If the Secretary terminates a contract under section 1876 during a year, no inpatient hospital deductible shall be imposed during the remainder of the year in the case of an individual who can demonstrate to the satisfaction of the Secretary that, during a period of enrollment with the organization in the year, the individual was admitted to a hospital for inpatient hospital services for which the organization was obligated to make payment under such section.

"(2)(A) The amount payable to any provider of services under this part for services furnished an individual shall be further reduced by a deduction equal to the expenses incurred for the first three pints of whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished to the individual during each calendar year, except that such deductible for such blood shall in accordance with regulations be appropriately reduced to the extent that there has been a replacement of such blood (or equivalent quantities of packed red blood cells, as so defined); and for such purposes blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual shall be deemed replaced when the institution or other person furnishing such blood (or such equivalent quantities of packed red blood cells, as so defined) is given one pint of blood for each pint of blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual with respect to which a deduction is made under this sentence.

"(B) The deductible under subparagraph (A) for blood or blood cells furnished an individual in a year shall be reduced to the extent that a deductible has been imposed under section 1833(b) to blood or blood cells furnished the individual in the year.

"(3)(A) The amount payable for extended care services furnished an individual in any calendar year shall be reduced by the coinsurance amount (promulgated under subparagraph (C) for that year) for each day (before the 9th day) on which he is furnished such services during the year.

"(B) Before September 1 of each year (beginning with 1988), the Secretary shall estimate the national average per diem reasonable cost recognized under this title for extended care services which will be furnished in the succeeding calendar year.

"(C) The Secretary shall, in September of each year (beginning with 1988) promulgate the coinsurance amount which shall apply to extended care services furnished in the succeeding year. Such amount shall be equal to 20 percent of the national average per diem cost estimated under subparagraph (B) in that year. If the coinsurance amount determined under the preceding sentence is not a multiple of 50 cents, it shall be rounded to the nearest multiple of 50 cents (or, if it is a multiple of 25 cents but not a multiple of 50 cents, to the next higher multiple of 50 cents).."; and

(2) by striking paragraph (3) of subsection (b).

SEC. 103. PART A PREMIUM FOR MEDICARE BUY-INS.

Subsection (d) of section 1818 (42 U.S.C. 1395i(2)) is amended to read as follows:

"(d)(1) The Secretary shall, during September of each year (beginning with 1988), estimate the monthly actuarial rate for months in the succeeding year. Such actuarial rate shall be one-twelfth of the amount which the Secretary estimates (on an average, per capita basis) is equal to 100 percent of the benefits and administrative costs which will be payable from the Federal Hospital Insurance Trust Fund for services performed and related administrative costs incurred in the succeeding year with respect to individuals age 65 and over who will be entitled to benefits under this part during that entire year.

"(2) The Secretary shall, during September of each year determine and promulgate the dollar amount which shall be applicable for premiums for months occurring in the following year. Such amount shall be equal to the monthly actuarial rate determined under paragraph (1) for that following year. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1).

"(3) Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium under this section, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for individuals 65 and older as provided in paragraph (1).".

SEC. 104. EFFECTIVE DATES, TRANSITION, AND CONFORMING AMENDMENTS.

(a) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this subtitle shall take effect on January 1, 1989, and shall apply—

(A) to the inpatient hospital deductible for 1989 and succeeding years,

(B) to care and services furnished on or after January 1, 1989,

(C) to premiums for January 1989 and succeeding months, and

(D) to blood or blood cells furnished on or after January 1, 1989.

(2) ELIMINATION OF POST-HOSPITAL REQUIREMENT FOR EXTENDED CARE SERVICES.—The amendments made by this subtitle, insofar as they eliminate the requirement (under section 1812(a)(2) of the Social Security Act) that extended care services are only covered under title XVIII of such Act if they are post-hospital extended care services, shall only apply to extended care services furnished pursuant to an admission to a skilled nursing facility occurring on or after January 1, 1989.

(b) HOLD HARMLESS PROVISIONS.—In the case of an individual for whom a spell of illness (as defined in section 1861(a) of the Social Security Act, as in effect on December 31, 1988) began before January 1, 1989, and had not yet ended as of such date—

(1) the amendment made to section 1813(a)(1) of such Act shall not apply to services furnished during that spell of illness during 1989 or 1990, and

(2) the amount of any deductible under section 1813(a)(2) of such Act (as amended by this subtitle) shall be reduced during that spell of illness during 1989 or 1990 to the extent the deductible under such section was applied during the spell of illness.

(c) ADJUSTMENTS IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.—

(1) PPS HOSPITALS.—In adjusting DRG prospective payment rates under section 1886(d) of the Social Security Act, outlier cutoff points under section 1886(d)(5)(A) of such Act, and weighting factors under section 1886(d)(4) of such Act for discharges occurring on or after October 1, 1988, the Secretary of Health and Human Services shall, to the extent appropriate, take into consideration the reductions in payments to hospitals by medicare beneficiaries resulting from the elimination of a day limitation on medicare inpatient hospital services (under the amendment made by section 101).

(2) PPS-EXEMPT HOSPITALS.—In adjusting target amounts under section 1886(b)(3) of the Social Security Act for cost reporting periods beginning on or after October 1, 1988, the Secretary shall, on a hospital-specific basis, take into consideration the reductions in payments to hospitals by medicare beneficiaries resulting from the elimination of a day limitation on medicare inpatient hospital services (under the amendment made by section 101).

(d) MISCELLANEOUS CONFORMING AMENDMENTS.—

(1) Section 1811 (42 U.S.C. 1395c) is amended by striking "hospital, related post-hospital" and inserting "inpatient hospital services, extended care services".

(2) Section 1814 (42 U.S.C. 1395f) is amended—

(A) in paragraphs (2)(B) and (6) of subsection (a), by striking "post-hospital" each place it appears;

(B) in subsection (a)(2)(B), by striking ", for any of the conditions" and all that follows up to the semicolon;

(C) in subsection (a)(7)(A)—

(i) by striking "and" at the end of clause (i),

(ii) by striking the semicolon at the end of clause (ii) and inserting ", and", and

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

"(iii) in a subsequent extension period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;"; and

(D) in subsection (d)(3)—

(i) by striking "60 percent" and "80 percent" and inserting "100 percent" both places, and

(ii) by striking "two-thirds of".

(3) Section 1832(b) (42 U.S.C. 1395k(b)) is amended by striking " 'spell of illness'," and the comma before "and".

(4) Section 1861 (42 U.S.C. 1395x) is amended—

(A) by striking subsection (a);

(B) in subsection (e)—

(i) in the matter before paragraph (1), by striking "paragraph (7) of this subsection, and subsection (i) of this section" and inserting "and paragraph (7) of this subsection",

(ii) in the third sentence, by striking "section 1814(f)(2), and subsection (i) of this section" and inserting "and section 1814(f)(2)",

(iii) in the fifth sentence, by striking ", except for purposes of subsection (a)(2),", and

(iv) by striking the second sentence;

(C) by striking subsection (i);

(D) in subsections (v)(1)(G)(i), (v)(2)(A), and (v)(3), by striking "post-hospital" each place it appears; and

(E) in subsection (y)—

(i) by striking "Post-Hospital" in the heading and by striking "post-hospital" each place it appears;

(ii) in paragraph (1), by striking "(except for purposes of subsection (a)(2))", and

(iii) in paragraphs (2) and (3), by striking "spell of illness" and "spell" each place either appears and inserting "year",

(iv) in paragraph (2)(A)(i), by striking "30 days" and inserting "45 days",

(v) in paragraph (3), by striking "one-eighth" and all that follows through "31st day" and inserting "the coinsurance amount established under section 1813(a)(3)(C) for each day before the 46th day", and

(vi) by striking paragraph (4).

(5) Section 1866(d) (42 U.S.C. 1395cc(d)) is amended by striking "post-hospital" each place it appears.

(6) Subsections (d)(1) and (f) of section 1883 (42 U.S.C. 1395tt) are amended by striking "post-hospital" each place it appears.

SUBTITLE B—SUPPLEMENTAL MEDICARE PREMIUM

SEC. 111. IMPOSITION OF SUPPLEMENTAL MEDICARE PREMIUM.

(a) GENERAL RULE.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SUPPLEMENTAL MEDICARE PREMIUM.

"Sec. 59B. Supplemental medicare premium.

"SEC. 59B. SUPPLEMENTAL MEDICARE PREMIUM.

"(a) IMPOSITION OF PREMIUM.—In the case of an individual to whom this section applies, there is hereby imposed (in addition to any other amount imposed by this subtitle) for each taxable year a supplemental premium equal to the annual premium for such year determined under subsection (c).

"(b) INDIVIDUALS SUBJECT TO PREMIUM.—This section shall apply to an individual for any taxable year if—

"(1) such individual is a medicare-eligible individual for more than 6 full months beginning in the taxable year, and

"(2) such individual's adjusted income tax liability for the taxable year equals or exceeds $150.

"(c) DETERMINATION OF AMOUNT OF SUPPLEMENTAL PREMIUM.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the annual premium determined under this subsection with respect to any individual for any taxable year shall be equal to the product of—

"(A) the supplemental premium rate determined under subsection (d) or (e) (whichever applies) for the taxable year, multiplied by

"(B) the amount determined by dividing—

"(i) the individual's adjusted income tax liability for the taxable year, by

"(ii) $150.

"(2) LIMITATION ON ANNUAL PREMIUM.—

"(A) YEARS BEFORE 1994.—In the case of any taxable year beginning before 1994, the annual premium determined under this subsection with respect to any individual shall not exceed the limitation determined under the following table:

"In the case of taxable years beginning in:	*The limitation is:*
1989	*$800*
1990	*850*
1991	*900*
1992	*950*
1993	*1,050.*

"(B) YEARS AFTER 1993.—In the case of any taxable year beginning in a calendar year after 1993, the annual premium determined under this subsection with respect to any individual shall not exceed—

"(i) the limitation which would be in effect under this paragraph for taxable years beginning in the preceding calendar year without regard to the last sentence of this subparagraph, increased by

"(ii) the percentage (if any) by which—

"(I) the medicare-part B value for the 2nd preceding calendar year, exceeds

"(II) such value for the 3rd preceding calendar year.

If the limitation determined under the preceding sentence is not a multiple of $50, such limitation shall be rounded to the nearest multiple of $50.

"(C) MEDICARE-PART B VALUE.—

"(i) IN GENERAL.—For purposes of subparagraph (B), the term 'medicare-part B value' means, with respect to any calendar year, an amount equal to the excess of—

"(I) the average per capita part B outlays for the year, over

"(II) 12 times the monthly premium for months in such calendar year established under section 1839 of such Act (without regard to subsections (b), (f), (g)(4), and (g)(5) thereof).

"(ii) AVERAGE PER CAPITA PART B OUTLAYS.—For purposes of clause (i), the term 'average per capita part B outlays' means, with respect to a calendar year—

"(I) the outlays under part B of title XVIII of the Social Security Act for the year, divided by

"(II) the average number of individuals covered under such part during the year.

"(iii) SPECIAL RULE FOR COVERED OUTPATIENT DRUGS.—In applying the limitation under subparagraph (B) with respect to taxable years beginning in any calendar year before 1998, for purposes of this subparagraph—

"(I) the term 'outlays' does not include outlays for covered outpatient drugs (as defined in section 1861(t)(2) of the Social Security Act), and

"(II) the monthly premium shall be computed under clause (i)(II) excluding premiums under section 1839(g) of such Act attributable to the prescription drug monthly premium.

"(3) TABLES.—The annual premium shall be determined under tables which shall be prescribed by the Secretary. Such tables shall be based on the foregoing provisions of this subsection; except that such tables may have adjusted income tax liability brackets of less than $150.

"(d) DETERMINATION OF SUPPLEMENTAL PREMIUM RATE FOR YEARS BEFORE 1994.—In the case of any taxable year beginning before 1994, the supplemental premium rate determined under this subsection shall be the sum of the catastrophic coverage premium rate and the prescription drug premium rate determined under the following table:

"In the case of any taxable year beginning in:	*The catastrophic coverage premium rate is:*	*The prescription drug premium rate is:*
1989	*$22.50*	*0*
1990	*$27.14*	*$10.36*
1991	*$30.17*	*8.83*
1992	*$30.55*	*9.95*
1993	*$29.55*	*12.45.*

"(e) SUPPLEMENTAL PREMIUM RATE FOR YEARS AFTER 1993.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1993, except as provided in paragraph (2), the supplemental premium rate determined under this subsection shall be the sum of—

"(A) the catastrophic coverage premium rate (which would be in effect under this section for taxable years beginning in the preceding calendar year if paragraph (2) did not apply to any preceding calendar year) adjusted by the percentage determined under paragraph (3) for the calendar year in which the taxable year begins, and

"(B) the prescription drug premium rate (which would be in effect under this section for taxable years beginning in the preceding calendar year if paragraph (2) did not apply to any preceding calendar year) adjusted by the percentage determined under paragraph (4) for the calendar year in which the taxable year begins.

"(2) SUPPLEMENTAL PREMIUM RATE CANNOT GO DOWN, AND CANNOT GO UP BY MORE THAN $1.50.—

"(A) IN GENERAL.—In no event shall the supplemental premium rate determined under this subsection for any taxable year beginning in a calendar year after 1993—

"(i) be less than, or

"(ii) exceed by more than $1.50,

the supplemental premium rate in effect under this section for taxable years beginning in the preceding calendar year.

"(B) DETERMINATION OF COMPONENT RATES WHERE SUBPARAGRAPH (A) APPLIES.—If subparagraph (A) affects the supplemental premium rate determined under this subsection for taxable years beginning in any calendar year, the supplemental premium rate determined after the application of subparagraph (A) shall be allocated between the catastrophic coverage premium rate and the prescription drug premium rate on the basis of the respective amounts of such rates without regard to the application of subparagraph (A).

"(3) PERCENTAGE ADJUSTMENT FOR CATASTROPHIC COVERAGE PREMIUM RATE.—

"(A) IN GENERAL.—The percentage determined under this paragraph for any calendar year shall be the sum of—

"(i) the outlay-premium percentage, and

"(ii) the reserve account percentage.

For purposes of the preceding sentence, negative percentages shall be taken into account as negatives.

"(B) OUTLAY-PREMIUM PERCENTAGE.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the outlay-premium percentage for any calendar year is—

"(I) the percentage by which the per capita catastrophic outlays in the 2nd preceding calendar year exceed such outlays in the 3rd preceding calendar year, reduced (including below zero) by

"(II) the percentage by which the per capita catastrophic coverage premium liability for the 2nd preceding calendar year exceeds such liability for the 3rd preceding calendar year (determined as if the catastrophic coverage premium rate for the 2nd preceding calendar year were the same as the rate in effect for the 3rd preceding calendar year).

If there is no excess described in subclause (I) or (II), such subclause shall be applied by substituting 'is less than' for 'exceeds' and the percentage determined with such substitution shall be taken into account as a negative percentage.

"(ii) ADJUSTMENT FOR MORE RECENT INCREASES IN COST-OF-LIVING.—If—

"(I) the percentage increase in the CPI for the 12-month period ending with May of the preceding calendar year, exceeds (or is less than)

"(II) such increase for the 12-month period ending with May of the 2nd preceding calendar year,

by at least 1 percentage point, the percentage determined under clause (i) for the calendar year shall be adjusted up (or down, respectively) by ½ of the amount by which such excess (or shortage, respectively) exceeds 1 percent.

"(C) RESERVE ACCOUNT PERCENTAGE.—

"(i) IN GENERAL.—The reserve account percentage for any calendar year is the percentage which the rate change determined under clause (ii) is of the catastrophic coverage premium rate which would be in effect under this section for taxable years beginning in the preceding calendar year if paragraph (2) did not apply to any preceding calendar year. If there is an excess determined under clause (iii), the percentage determined under the preceding sentence shall be taken into account as a negative percentage.

"(ii) DETERMINATION OF RATE CHANGE.—The rate change determined under this clause for any calendar year is the adjustment in the catastrophic coverage premium rate (otherwise in effect for taxable years beginning in the 2nd preceding calendar year) which the Secretary determines would have resulted in an aggregate increase (or decrease) in the premiums imposed by this section for such taxable years equal to 63 percent of the shortfall or excess determined under clause (iii) for the calendar year.

"(iii) DETERMINATION OF SHORTFALL OR EXCESS.—The shortfall (or excess) determined under this clause for any calendar year is the amount by which—

"(I) 20 percent of the outlays during the 2nd preceding calendar year from the Medicare Catastrophic Coverage Account created under section 1841B of the Social Security Act, exceeds (or is less than)

"(II) the balance in such Account as of the close of such 2nd preceding calendar year (determined by taking into account previous premium increases by reason of the reserve account percentage under this subsection or by reason of section 1839(g)(2) of the Social Security Act but not credited to the Account).

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) PER CAPITA CATASTROPHIC OUTLAYS.—The term 'per capita catastrophic outlays' means, with respect to any calendar year, the amount (as determined by the Secretary of Health and Human Services) equal to—

"(I) the outlays during such year from the Medicare Catastrophic Coverage Account created under section 1841B of the Social Security Act, divided by

"(II) the average number of individuals entitled to receive benefits under part A of title XVIII of the Social Security Act during such calendar year.

"(ii) PER CAPITA CATASTROPHIC COVERAGE PREMIUM LIABILITY.—The term 'per capita catastrophic coverage premium liability' means, with respect to any calendar year, the amount (as determined by the Secretary) equal to—

"(I) the aggregate premiums imposed by this section for taxable years beginning in such calendar year to the extent attributable to the catastrophic coverage premium rate, divided by

"(II) the number of individuals who had premium liability under this section for such taxable years.

"(iii) PERCENTAGE INCREASE IN CPI.—The percentage increase in the CPI for any 12-month period shall be the percentage by which the Consumer Price Index (as defined in section 1(f)(5)) for the last month of such period exceeds such Index for the last month of the preceding 12-month period.

"(4) PERCENTAGE ADJUSTMENT FOR PRESCRIPTION DRUG PREMIUM RATE.—The percentage determined under this paragraph for any calendar year shall be determined under rules similar to the rules of paragraph (3); except that—

"(A) in determining the prescription drug premium rate for any calendar year before 1998, the following percentages shall be substituted for 20 percent in paragraph (3)(C)(iii)(I):

"In the case of calendar year:	The percentage is:
1994	75
1995	50
1996	25
1997	25;

"(B) no adjustment by reason of the outlay-premium percentage shall be made for any calendar year before 1998,

"(C) any reference to the Medicare Catastrophic Coverage Account shall be treated as a reference to the Federal Catastrophic Drug Insurance Trust Fund, and

"(D) any reference to the catastrophic coverage premium rate shall be treated as a reference to the prescription drug premium rate.

"(f) DEFINITIONS AND SPECIAL RULES.—

"(1) MEDICARE-ELIGIBLE INDIVIDUAL.—For purposes of this section—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'medicare-eligible individual' means, with respect to any month, any individual who is entitled to (or, on application without the payment of an additional premium, would be entitled to) benefits under part A of title XVIII of the Social Security Act for such month.

"(B) EXCEPTIONS.—The term 'medicare-eligible individual' shall not include for any month—

"(i) any individual who is entitled to benefits under part A of title XVIII of the Social Security Act for such month solely by reason of the payment of a premium under section 1818 of such Act, or

"(ii) any qualified nonresident.

"(2) SPECIAL RULES FOR JOINT RETURNS.—In the case of a joint return—

"(A) WHERE PREMIUM APPLIES TO BOTH SPOUSES.—If both spouses meet the requirements of subsection (b)(1) for the taxable year—

"(i) such spouses shall be treated as 1 individual for purposes of applying this section, except that

"(ii) the limitation of subsection (c)(2) shall be twice the amount which would otherwise apply.

"(B) WHERE PREMIUM APPLIES TO ONLY 1 SPOUSE.—If only 1 spouse meets the requirements of subsection (b)(1) for the taxable year—

"(i) this section shall be applied separately with respect to such spouse, and

"(ii) the adjusted income tax liability of such spouse shall be determined under paragraph (4)—

"(I) by taking into account one-half of the income tax liability determined with respect to the joint return, and

"(II) by taking into account under clause (ii) of paragraph (4)(C) only amounts attributable to such spouse.

"(3) SEPARATE RETURNS BY MARRIED INDIVIDUALS.—If an individual is married as of the close of the taxable year (within the meaning of section 7703) but does not file a joint return for the taxable year and such individual does not live apart from his spouse at all times during the taxable year—

"(A) the limitation of subsection (c)(2) shall be twice the amount which would otherwise apply if both the individual and the spouse of the individual meet the requirements of subsection (b)(1) with respect to the calendar year in which the taxable year begins (determined without regard to subparagraph (B) of this paragraph),

"(B) if such individual does not otherwise meet the requirements of subsection (b)(1), such individual shall be treated as meeting the requirements of subsection (b)(1) for the taxable year if the spouse of such individual meets such requirements with respect to the calendar year in which the taxable year begins, and

"(C) in applying subparagraph (C) of paragraph (4)—

"(i) the dollar limitation of clause (i) thereof shall be 1/2 of the amount which applies to a joint return where both spouses meet the requirements of subsection (b)(1), and

"(ii) the individual shall be deemed to receive social security benefits during the taxable year in an amount not less than 1/2 of the aggregate social security benefits received by such individual and his spouse during the taxable year.

"(4) ADJUSTED INCOME TAX LIABILITY.—For purposes of this section—

"(A) IN GENERAL.—The term 'adjusted income tax liability' means an amount equal to the income tax liability, reduced by the excess (if any) of—

"(i) 15 percent of the governmental retiree exclusion amount (if any) determined under subparagraph (C) for the taxable year, over

"(ii) the amount of the credit allowable under section 22 for the taxable year.

"(B) INCOME TAX LIABILITY.—The term 'income tax liability' means—

"(i) the tax imposed by this chapter (determined without regard to this section), reduced by

"(ii) the credits allowed under part IV of this subchapter (other than under sections 31, 33, and 34).

"(C) GOVERNMENTAL RETIREE EXCLUSION AMOUNT.—The governmental retiree exclusion amount for any taxable year is the lesser of—

"(i) $6,000 ($9,000 in the case of a joint return where both spouses meet the requirements of subsection (b)(1) for the taxable year), or

"(ii) the amount which is received as an annuity (whether for a period certain or during 1 or more lives) under a governmental plan (as defined in the 1st sentence of section 414(d)) and which is includible in gross income under section 72 for the taxable year.

The amount determined under the preceding sentence shall be reduced by the social security benefits (as defined in section 86(d)) received during the taxable year.

"(D) INDEXING.—In the case of any taxable year beginning in a calendar year after 1989, subparagraph (C)(i) shall be applied by substituting for each dollar amount contained in such subparagraph an amount equal to—

"(i) the dollar amount which would be in effect under subparagraph (C)(i) for taxable years beginning in the preceding calendar year without regard to the last sentence of this subparagraph, increased by

"(ii) the cost-of-living adjustment determined under section 215(i) of the Social Security Act for the calendar year in which the taxable year begins.

Any amount determined under the preceding sentence shall be rounded to the nearest multiple of $50.

"(5) QUALIFIED NONRESIDENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified nonresident' means, with respect to any month during the taxable year, any individual if—

"(i) such individual is not furnished during such taxable year or any of the 4 preceding taxable years any service for which a claim for payment is made under part A of title XVIII of the Social Security Act,

"(ii) such individual is not entitled to benefits under part B of title XVIII of the Social Security Act at any time during such taxable year or any of the 4 preceding taxable years, and

"(iii) such individual is present in a foreign country or countries for at least 330 full days during—

"(I) the 12-month period ending at the close of the taxable year, and

"(II) each of the 4 consecutive preceding 12-month periods.

"(B) SPECIAL RULE FOR INDIVIDUALS WHO DIE DURING THE TAXABLE YEAR.—An individual who dies during the taxable year shall be treated as meeting the requirement of subparagraph (A)(iii)(I) if such individual is present in a foreign country or countries for at least a number of full days equal to 90 percent of the days during such taxable year before the date of death.

"(6) COORDINATION WITH OTHER PROVISIONS.—

"(A) NOT TREATED AS MEDICAL EXPENSE.—For purposes of section 213, the supplemental premium imposed by this section for any taxable year shall not be treated as an expense paid for medical care.

"(B) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The supplemental premium imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this chapter, or

"(ii) the amount of the minimum tax imposed by section 55.

"(C) TREATED AS TAX FOR SUBTITLE F.—For purposes of subtitle F, the supplemental premium imposed by this section shall be treated as if it were a tax imposed by section 1.

"(D) SECTION 15 NOT TO APPLY.—Section 15 shall not apply to the supplemental premium imposed by this section.

"(7) SECTION NOT TO AFFECT LIABILITY TO POSSESSIONS, ETC.—This section shall not apply for purposes of determining liability to any possession of the United States. For purposes of sections 932 and 7654, the supplemental premium imposed by this section shall not be treated as a tax imposed by this chapter.

"(8) SHORT TAXABLE YEARS.—In the case of a taxable year of less than 12 months, this section shall be applied under regulations prescribed by the Secretary."

(b) INFORMATION REPORTING.—

(1) Subsection (a) of section 6050F of such Code is amended by striking "and" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) whether any individual meets the requirements of section 59B(b)(1) with respect to the calendar year (determined without regard to section 59B(f)(1)(B)(ii)), and".

(2) Section 6050F(b) of such Code is amended—

(A) by inserting "or making the determination under subsection (a)(2)" after "payments" in paragraph (1), and

(B) by inserting "and the information required under subsection (a)(2)," after "reductions," in paragraph (2).

(3) Section 6050F(c)(1)(A) of such Code is amended by inserting "and the information required under subsection (a)(2)" after "section 86(d)(1)(A)".

(c) 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. Supplemental medicare premium."

(d) ANNOUNCEMENT OF SUPPLEMENTAL PREMIUM RATE.—In the case of calendar year 1993 or any calendar year thereafter—

(1) not later than July 1 of such calendar year, the Secretary of the Treasury or his delegate shall make an announcement of the estimated supplemental premium rate under section 59B of the Internal Revenue Code of 1986 for taxable years beginning in the following calendar year, and

(2) not later than October 1 of such calendar year, the Secretary of the Treasury or his delegate shall make an announcement of the actual supplemental premium rate under such section for such taxable years.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

(2) WAIVER OF ESTIMATED TAX REQUIREMENT FOR YEARS BEGINNING IN 1989.—In the case of a taxable year beginning in 1989, the premium imposed by section 59B of the Internal Revenue Code of 1986 (as added by this section) shall not be treated as a tax for purposes of applying section 6654 of such Code.

SEC. 112. ESTABLISHMENT OF FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.

(a) IN GENERAL.—Part A of title XVIII is amended by inserting after section 1817 the following new section:

"FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND

"SEC. 1817A. (a)(1) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Hospital Insurance Catastrophic Coverage Reserve Fund' (in this section referred to as the 'Reserve Fund'). The Reserve Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and amounts appropriated under paragraph (2).

"(2) There are hereby appropriated to the Reserve Fund, from the supplemental premiums imposed by section 59B of the Internal Revenue Code of 1986 attributable to the supplemental catastrophic premium rate, amounts equivalent to 100 percent of the amount of outlays made under this part attributable to the amendments made by the Medicare Catstrophic Coverage Act of 1988. The amounts appropriated by the preceding sentence shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Reserve Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the premiums, specified in the preceding sentence, paid to or deposited into the Treasury and on the basis of outlays, specified in the previous sentence, made; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the appropriate amounts specified in such sentence. At the close of each year, the transfers under this subsection shall reflect all premiums (described in this paragraph) paid or deposited into the Treasury in the year.

"(3) With respect to monies transferred to this Fund, no transfers, authorizations of appropriations, or appropriations are permitted.

"(b) The provisions of subsections (b) through (e) of section 1817 shall apply to the Reserve Fund in the same manner as they apply to the Federal Hospital Insurance Trust Fund, except that the Board of Trustees and Managing Trustee of the Reserve Fund shall be composed of the members of the Board of Trustees and the Managing Trustee, respectively, of the Federal Hospital Insurance Trust Fund.

"(c) In this part, with respect to the Reserve Fund, the terms 'outlays' and 'receipts' mean, with respect to a quarter or other period, gross outlays and receipts, as such terms are employed in the 'Monthly Treasury Statement of Receipts and Outlays of the United States Government (MTS)', as published by the Department of the Treasury, for months in such quarter or other period.".

(b) INTEREST ADJUSTMENT.—In July 1990, the Secretary of the Treasury shall calculate the interest lost to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund due to the lag between the outlays (attributable to the amendments made by this Act) from the Federal Hospital Insurance Trust Fund during 1989 and the transfers made to such Reserve Fund to cover such outlays. Appropriations under section 1817A(a)(2) of the Social Security Act (as inserted by subsection (a)) shall include the amount calculated under the previous sentence.

SEC. 113. STUDY OF TAX INCENTIVES FOR PURCHASE OF COVERAGE FOR LONG-TERM CARE.

(a) IN GENERAL.—The Secretary of the Treasury (in this section referred to as the "Secretary") shall conduct a study of Federal tax policies to promote the private financing of long-term care (as defined in subsection (d)). The study shall identify alternative methods of creating incentives, through the tax system, to encourage individuals to purchase insurance coverage for long-term care. The study shall also consider the cost to the United States Treasury and the potential benefits to consumers, including whether the incentives would benefit all or most of the population requiring protection.

(b) CONSULTATION.—The Secretary shall conduct the study required by subsection (a) in consultation with representatives of the insurance industry, providers of long-term care, and consumers.

(c) REPORT.—The Secretary shall report the results of the study required by subsection (a) to the Congress not later than November 30, 1988, together with the Secretary's recommendations for any changes in Federal law that the Secretary determines to be appropriate to promote the private financing of long-term care.

(d) LONG-TERM CARE DEFINED.—For purposes of this section, the term "long-term care" includes care and services provided by nursing homes, home health agencies, and other mechanisms for the delivery of long-term care services.

TITLE II—PROVISIONS RELATING TO PART B OF THE MEDICARE PROGRAM AND MEDICARE SUPPLEMENTAL HEALTH INSURANCE

SUBTITLE A—EXPANSION OF MEDICARE PART B BENEFITS

SEC. 201. LIMITATION ON MEDICARE PART B COST-SHARING.

(a) IN GENERAL.—Section 1833 (42 U.S.C. 1395l) is amended—

(1) in subsection (c)—

(A) by striking "subsections (a) and (b)" and inserting "subsection (a) through (c)",

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

(C) by striking "this subsection" and inserting "this paragraph", and

(D) by striking "(c)" and inserting "(d)(1)";

(2) by redesignating subsection (d) as paragraph (2);

(3) in subsection (g), by striking "(a) and (b)" inserting "(a) through (c)"; and

(4) by inserting after subsection (b) the following new subsection:

"(c)(1) Notwithstanding subsections (a) and (b), if an individual has incurred out-of-pocket part B cost sharing (as defined in paragraph (2)) in a calendar year (beginning with 1990) in an amount equal to the part B catastrophic limit (established under

paragraph (3)) for the year, payment under this part with respect to any additional incurred expenses in the calendar year shall be made as if—

"(A) the deduction described in the second sentence of subsection (b) (relating to blood) no longer applied, and

"(B) '100 percent' and '0 percent' were substituted for '80 percent' and '20 percent', respectively, each place either appears in subsections (a) and (i)(2), in sections 1834(a)(1)(A), 1834(e)(1)(C), 1835(b)(2), and 1866(a)(2)(A) and in subsections (b)(2) and (b)(3) of section 1881, except as such provisions may apply to in-home care.

"(2) In this subsection, the term 'out-of-pocket part B cost sharing' means, with respect to an individual covered under this part, the amounts of expenses that the individual incurs that are attributable to—

"(A) the deductions established under subsection (b), and

"(B) the difference between the payment amount provided under this part and the payment amount that would be provided if '100 percent' and '0 percent' were substituted for '80 percent' and '20 percent', respectively, each place either appears in subsections (a) and (i)(2), in sections 1834(a)(1)(A), 1834(e)(1)(C), 1835(b)(2), and 1866(a)(2)(A) and in subsections (b)(2) and (b)(3) of section 1881.

"(3)(A) The part B catastrophic limit for 1990 is $1370. The part B catastrophic limit for any succeeding year shall be such an amount (rounded to the nearest multiple of $1) as the Secretary estimates will result, in that succeeding year, in 7 percent of the average number of individuals enrolled under this part (other than individuals enrolled with an eligible organization under section 1876 or an organization described in subsection (a)(1)(A)) during the year becoming entitled to benefits under this subsection.

"(B) Not later than September 1 of each year (beginning with 1990), the Secretary shall promulgate the part B catastrophic limit under this paragraph for the succeeding year.

"(4) In the case of an organization receiving payment under clause (A) of subsection (a)(1) or under a reasonable cost reimbursement contract under section 1876, in applying paragraph (1), the Secretary shall provide for an appropriate adjustment in the payment amounts otherwise made to reflect the aggregate increase in payments that would otherwise be made with respect to enrollees in such an organization if payments were made other than under such clause or such a contract on an individual-by-individual basis.

"(5)(A) Except as provided in subparagraph (B), expenses incurred by a medicare beneficiary for out-of-pocket part B cost-sharing shall be counted (consistent with subparagraph (C)) whether or not, at the time the expenses were incurred, the beneficiary was enrolled in a plan under section 1833(a)(1)(A) or under section 1876. In this paragraph, with respect to a medicare beneficiary enrolled in such a plan, the term 'out-of-pocket part B cost-sharing' includes deductibles and coinsurance under the plan for items and services covered under this part.

"(B) In the case of a medicare beneficiary enrolled in a month in a buy-out plan (as defined in subparagraph (D))—

"(i) expenses incurred by the beneficiary for items and services reimbursed under the plan shall not be treated as out-of-pocket part B cost-sharing for purposes of paragraph (1), but

"(ii) the beneficiary is deemed to have incurred, for each month of such enrollment, expenses for out-of-pocket part B cost-sharing in an amount equal to the actuarial value (with respect to a month in the year involved) of the deductible and coinsurance amounts under part B (as computed by the Secretary for purposes of section 1876(e)(1), other than with respect to covered outpatient drugs) applicable on the average to individuals in the United States.

"(C) The Secretary may not enter into a contract with an organization under section 1876, or provide for payment under section 1833(a)(1)(A) with respect to an organization, with respect to a plan that is not a buy-out plan, unless the organization provides assurances, satisfactory to the Secretary, that—

"(i) the organization will maintain and make available, for its enrollees and in coordination with the appropriate carriers under this part, an accounting of expenses incurred in each year under the plan for out-of-pocket part B cost-sharing (as defined in subparagraph (A)); and

"(ii) the organization will not undertake to charge a beneficiary during a year for services for which payment may be made under this part (other than for covered outpatient drugs) after the individual has incurred (whether through the organization or otherwise) out-of-pocket part B cost sharing in the year in an amount equal to the part B catastrophic limit established under paragraph (1) for the year.

"(D) In this paragraph, the term 'buy-out plan' means a plan under section 1833(a)(1)(A) or offered by an organization under section 1876 and with respect to which—

"(i) the actuarial value of the coinsurance and deductibles under the plan with respect to benefits (other than covered outpatient drugs) under this title (as determined by the Secretary),

is less than 50 percent of—

"(ii) the actuarial value of the coinsurance and deductibles for such benefits for all medicare beneficiaries (as determined by the Secretary) applicable on the average to individuals in the United States.

"(E) In this subsection, the term 'medicare beneficiary' means, with respect to a month, an individual covered for benefits under this part for the month.".

(b) LIMITATION ON CHARGES WHEN CATASTROPHIC LIMIT REACHED.—Section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended by adding at the end the following new sentence: "A provider of services may not impose a charge under the first sentence of this subparagraph for services for which payment is made to the provider pursuant to section 1833(c) (relating to catastrophic benefits).".

(c) NOTICE FOR BENEFICIARIES REACHING CATASTROPHIC LIMIT.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (G),

(2) by inserting "and" at the end of subparagraph (H), and

(3) by inserting after subparagraph (H) the following new subparagraph:

"(I) will provide each individual, who is determined to have incurred (or has had paid on the individual's behalf) sufficient out-of-pocket part B cost sharing in a calendar year to qualify for payment for additional incurred expenses to be made pursuant to section 1833(c), with a notice that states that the individual has reached the part B catastrophic limit on out-of-pocket cost sharing for the year;".

(d) CONFORMING AMENDMENT.—The second sentence of section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended by striking "1833(c)" and inserting "1833(d)(1)".

SEC. 202. COVERAGE OF CATASTROPHIC EXPENSES FOR PRESCRIPTION DRUGS AND INSULIN.

(a) DESCRIPTION OF COVERED OUTPATIENT DRUGS.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) by amending subparagraph (J) of subsection (s)(2) to read as follows:

"(J) covered outpatient drugs (as defined in subsection (t)); and", and

(2) in subsection (t)—

(A) by inserting "and paragraph (2)" after "subsection (m)(5)",

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

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

"(2) Subject to paragraph (3), the term 'covered outpatient drug' means—

"(A) a drug which may be dispensed only upon prescription and—

"(i) which is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act or which is approved under section 505(j) of such Act;

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling;

"(B) a biological product which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(ii) is produced at an establishment licensed under such section to produce such product; and

"(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

"(3)(A) The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as, as part of, or as incident to, any of the following (and for which payment may be included under this title):

"(i) Inpatient hospital services (described in subsection (b)(2)).

"(ii) Extended care services (described in subsection (h)(5)).

"(iii) Physicians' services under subparagraph (A) or (B) of subsection (s)(2).

"(iv) Dialysis supplies under subsection (s)(2)(F).

"(v) Antigens under subsection (s)(2)(G).

"(vi) Blood clotting factors for hemophiliacs under subsection (s)(2)(I).

"(vii) Services of a physician assistant under subsection (s)(2)(K)(ii).

"(viii) Pneumococcal, hepatitis B, or influenza vaccines under subsection (s)(10).

"(ix) Rural health clinic services (under subsection 1861(aa)(1)).

"(x) Comprehensive outpatient rehabilitation facility services (under subsection 1861(cc)(1)).

"(xi) Hospice care (as defined in subsection (dd)(1)).

"(xii) Certified nurse-midwife service (as defined in subsection (gg)(1)).

"(xiii) A covered surgical procedure in an ambulatory surgical center (under section 1832(a)(2)(F)(i)).

"(B) With respect to covered outpatient drugs dispensed in 1990, the term 'covered outpatient drug' is limited—

"(i) to drugs described in paragraph (2)(A) used in immunosuppressive therapy, and

"(ii) to covered home IV drugs (as defined in paragraph (4)).

"(C) The term 'covered outpatient drug' does not include a drug that is intravenously administered in a home setting unless it is a covered home IV drug.

"(4)(A) The term 'covered home IV drug' means a covered outpatient drug dispensed to an individual that—

"(i) is intravenously administered in a place of residence used as the individual's home, and

"(ii)(I) is an antibiotic drug and the Secretary has not determined, for the specific drug or for the indication to which it is applied, that the drug cannot generally be administered safely and effectively in a home setting, or

"(II) is not an antibiotic drug and the Secretary has determined, for the specific drug and the indication for which the drug is being applied, that the drug can generally be administered safely and effectively in a home setting.

"(B) Not later than January 1, 1990 (and periodically thereafter), the Secretary shall publish a list of the drugs, and indications for such drugs, that are covered home IV drugs (as defined in subparagraph (A)), with respect to which home intravenous drug therapy may be provided under this title.".

(b) DEDUCTIBLE AND PAYMENT AMOUNTS.—Part B is amended—

(1) in subsection (a)(1) of section 1833 (42 U.S.C. 1395l(b)), as amended by section 411(h)(7)(A)(v)(I) of this Act—

(A) by striking "and" before "(L)", and

(B) by adding at the end the following: "and (M) with respect to expenses incurred for covered outpatient drugs, the amounts paid shall be the amounts determined under section 1834(c)(2)";

(2) in subsection (a)(2) of such section by inserting "(other than covered outpatient drugs)" after "(2) in the case of services";

(3) in subsection (b) of such section—

(A) in clause (1), by inserting "or for covered outpatient drugs" after "1861(s)(10)(A)", and

(B) in clause (2), by inserting "or with respect to covered outpatient drugs" after "home health services"; and

(3) by adding at the end of section 1834 (42 U.S.C. 1395m) the following new subsection:

"(c) PAYMENT FOR COVERED OUTPATIENT DRUGS.—

"(1) DEDUCTIBLE.—

"(A) APPLICATION.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), payment shall be made under paragraph (2) only with respect to expenses incurred by an individual for covered outpatient drugs during a calendar year on or after such date in the year as the Secretary determines that the individual has incurred expenses in the year for covered outpatient drugs (during a period in which the individual is entitled to benefits under this part) equal to the amount of the catastrophic drug deductible specified in subparagraph (C) for that year.

"(ii) DEDUCTIBLE NOT APPLIED FOR POST-HOSPITAL HOME INTRAVENOUS DRUG THERAPY.—The catastrophic drug deductible established under this paragraph shall not apply to covered home IV drugs dispensed in conjunction with home intravenous drug therapy services which are part of a continuous course of such therapy initiated while the individual was an inpatient in a hospital.

"(iii) DEDUCTIBLE NOT APPLIED TO 1ST YEAR IMMUNOSUPPRESSIVES.—The catastrophic drug deductible established under this paragraph shall not apply to drugs described in subsection (t)(2)(A) used in immunosuppressive therapy and furnished, to an individual who receives an organ transplant for which payment is made under this title, within 1 year after the date of the transplant.

"(B) RESPONSE TO APPLICATION.—If the system described in section 1842(o)(4) has not been established and an individual applies to the Secretary to establish that the individual has met the requirement of subparagraph (A), the Secretary shall promptly notify the individual (and, if the application was submitted by or through a participating pharmacy, the pharmacy) as to the date (if any) as of which the individual has met such requirement.

"(C) CATASTROPHIC DRUG DEDUCTIBLE AMOUNT.—

"(i) IN GENERAL.—Subject to subparagraph (D), the catastrophic drug deductible specified in this subparagraph for—

"(I) 1990 is $550,

"(II) 1991 is $600,

"(III) 1992 is $652, and

"(IV) any succeeding year, is such an amount as the Secretary determines will result in 16.8 percent of the average number of individuals covered under this part (other than individuals enrolled with an eligible organization under section 1876 or an organization described in section 1833(a)(1)(A)) during that succeeding year having incurred expenses for covered outpatient drugs sufficient to meet the catastrophic drug deductible so determined.

"(ii) ROUNDING.—Any amount determined under this subparagraph which is not a multiple of $1 shall be rounded to the nearest multiple of $1.

"(iii) PUBLICATION.—Before May 1 of each year (beginning with 1992) the Secretary shall publish in the Federal Register a proposed regulation establishing the amount of the catastrophic drug deductible under this subparagraph for the following year. During the last 3 days of September of such year, the Secretary shall publish in the Federal Register the final regulation establishing the amount of such deductible for the following year, which amount may not be greater than the amount specified in the proposed regulation.

"(2) PAYMENT AMOUNT.—

"(A) IN GENERAL.—Subject to the catastrophic drug deductible established under paragraph (1)(A) and except as provided in subparagraph (C), the amounts payable under this part with respect to a covered outpatient drug is equal to the payment percent (specified in subparagraph (B)) of the lesser of—

"(i) the actual charge for the drug, or

"(ii) the applicable payment limit established under paragraph (3).

"(B) PAYMENT PERCENT.—For purposes of subparagraph (A), the payment percent is 100 percent minus the applicable coinsurance percent (specified in subparagraph (C)).

"(C) COINSURANCE PERCENT.—For purposes of subparagraph (B), the coinsurance percent—

"(i) for covered home IV drugs and for drugs described in paragraph (1)(A)(iii) (relating to immunosuppressive therapy during 1st year after transplant), is 20 percent; and

"(ii) for other covered outpatient drugs dispensed—

"(I) in 1990 or 1991, is 50 percent,

"(II) in 1992 is 40 percent, and

"(III) in 1993 or a succeeding year is 20 percent.

"(D) TREATMENT OF CERTAIN COST-BASED PREPAID ORGANIZATIONS.—In applying subparagraph (A) in the case of an organization under a reasonable cost reimbursement contract under section 1876 and in the case of an organization receiving payment under section 1833(a)(1)(A) and providing coverage of covered outpatient drugs, the Secretary shall provide for an appropriate adjustment in the payment amounts otherwise made to reflect the aggregate increase in payments that would otherwise be made with respect to enrollees in such an organization if payments were made other than under such clause or such a contract on an individual-by-individual basis.

"(3) PAYMENT LIMITS.—

"(A) PAYMENT LIMIT FOR NON-MULTIPLE SOURCE DRUGS AND MULTIPLE-SOURCE DRUGS WITH RESTRICTIVE PRESCRIPTIONS.—In the case of a drug that either is not a multiple source drug (as defined in paragraph (9)(A)) or is a multiple source drug and has a restrictive prescription (as defined in paragraph (9)(B)), the payment limit for the drug under this paragraph for a payment calculation period is equal to the lesser of—

"(i) the 90th percentile of the actual charges (computed on a statewide basis, carrier-wide basis, or other appropriate geographic area basis, as specified by the Secretary) for the drug for the second previous payment calculation period, adjusted (as the Secretary determines to be appropriate) to reflect the number of tablets (or other dosage units) dispensed; or

"(ii) the amount of the administrative allowance (established under paragraph (4)) plus the product of—

"(I) the number of tablets (or other dosage units) dispensed, and

"(II) the per tablet or unit average wholesale price for such drug (as determined under subparagraph (C) for the period for purposes of this subparagraph);

except that clause (i) shall not apply to covered outpatient drugs dispensed before January 1, 1992.

"(B) PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS WITHOUT RESTRICTIVE PRESCRIPTIONS.—In the case of a drug that is a multiple source drug but does not have a restrictive prescription, the payment limit for the drug under this paragraph for a payment calculation period is equal to the amount of the administrative allowance (established under paragraph (4)) plus the product of—

"(i) the number of tablets (or other dosage units) dispensed, and

"(ii) the unweighted median of the per tablet or unit average wholesale prices (determined under subparagraph (C) for purposes of this subparagraph) for such drug for the period.

"(C) DETERMINATION OF UNIT PRICE.—

"(i) IN GENERAL.—For purposes of this paragraph, the Secretary shall determine, with respect to the dispensing of a covered outpatient drug in a payment calculation period (beginning on or after January 1, 1990), the per tablet or unit average wholesale price for the drug.

"(ii) BASIS FOR DETERMINATIONS.—

"(I) DETERMINATION FOR NON-MULTIPLE-SOURCE DRUGS.—For purposes of subparagraph (A), such determination shall be based on a biannual survey conducted by the Secretary of a representative sample of direct sellers, wholesalers, or pharmacies (as appropriate) of wholesale (or comparable direct) prices (excluding discounts to pharmacies); except that if, because of low volume of sales for the drug or other appropriate reasons or in the case of covered outpatient drugs during 1990, the Secretary determines that such a survey is not appropriate with respect to a specific drug, such determination shall be based on published average wholesale (or comparable direct) prices for the drug.

"(II) DETERMINATION FOR MULTIPLE-SOURCE DRUGS.—For purposes of subparagraph (B), the Secretary may base the determination under this subparagraph on the published average wholesale (or comparable direct) prices for the drug or on a biannual survey conducted by the Secretary of a representative sample of direct sellers, wholesalers, or pharmacists (as appropriate) of wholesale (or comparable direct) prices (excluding discounts to pharmacies).

"(III) COMPLIANCE WITH SURVEY REQUIRED.—If a wholesaler or direct seller of a covered outpatient drug refuses, after being requested by the Secretary, to provide the information required in a survey under this clause, or deliberately provides information that is false, the Secretary may impose a civil money penalty of not to exceed $10,000 for each such refusal or provision of false information. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). Information gathered pursuant to the survey shall not be disclosed except as the Secretary determines to be necessary to carry out the purposes of this part.

"(iii) QUANTITY AND TIMING.—Such determination shall be based on the price or prices for purchases in reasonable quantities and shall be made for a payment calculation period based on prices for the first day of the first month of the previous payment calculation period.

"(iv) GEOGRAPHIC BASIS.—The Secretary shall make such determination, and calculate the payment limits under this paragraph, on a national basis; except that the Secretary may make such determination, and calculate such payment limits, on a regional basis to take account of limitations on the availability of drug products and variations among regions in the average wholesale prices for a drug product.

"(4) ADMINISTRATIVE ALLOWANCE FOR PURPOSES OF PAYMENT LIMITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for drugs dispensed in—

"(i) 1990 or 1991, the administrative allowance under this paragraph is—

"(I) $4.50 for drugs dispensed by a participating pharmacy, or

"(II) $2.50 for drugs dispensed by another pharmacy; or

"(ii) a subsequent year, the administrative allowance under this paragraph is the administrative allowance under this paragraph for the preceding year increased by the percentage increase (if any) in the implicit price deflator for gross national product (as published by the Department of Commerce in its 'Survey of Current Business') over the 12-month period ending with August of such preceding year.

Any allowance determined under the clause (ii) which is not a multiple of 1 cent shall be rounded to the nearest multiple of 1 cent.

"(B) ADJUSTMENT IN ALLOWANCE FOR MAIL SERVICE PHARMACIES.—The Secretary may, by regulation and after consultation with pharmacists, elderly groups, and private insurers, reduce the administrative allowances established under subparagraph (A) for any drug dispensed by a mail service pharmacy (as defined by the Secretary) based on differences between such pharmacies and other pharmacies with respect to operating costs and other economies.

"(5) ASSURING APPROPRIATE PRESCRIBING AND DISPENSING PRACTICES.—

"(A) IN GENERAL.—The Secretary shall establish a program to identify (and to educate physicians and pharmacists concerning)—

"(i) instances or patterns of unnecessary or inappropriate prescribing or dispensing practices for covered outpatient drugs,

"(ii) instances or patterns of substandard care with respect to such drugs, and

"(iii) potential adverse reactions.

"(B) STANDARDS.—In carrying out the program under subparagraph (A), the Secretary shall establish for each covered outpatient drug standards for the prescribing of the drug which are based on accepted medical practice. In establishing such standards, the Secretary shall incorporate standards from such current authoritative compendia as the Secretary may select; except that the Secretary may modify such a standard by regulation on the basis of scientific and medical information that such standard is not consistent with the safe and effective use of the drug.

"(C) PROHIBITION OF FORMULARY.—Nothing in this title (including paragraph (8)), other than sections 1861(t)(4)(A) and 1862(c), shall be construed as authorizing the Secretary to exclude from coverage or to deny payment—

"(i) for any specific covered outpatient drug, or specific class of covered outpatient drug, or

"(ii) for any specific use of such a drug for a specific indication unless such exclusion is pursuant to section 1862(a)(1) based on a finding by the Secretary that such use is not safe or is not effective.

"(6) TREATMENT OF CERTAIN PREPAID ORGANIZATIONS.—

"(A) GENERAL RULE COUNTING PREPAID PLAN EXPENSES TOWARDS THE CATASTROPHIC DRUG DEDUCTIBLE.—Except as provided in subparagraph (B), expenses incurred by (or on behalf of) a medicare beneficiary for covered outpatient drugs shall be counted (consistent with subparagraph (C)) toward the catastrophic drug deductible established under paragraph (1) whether or not, at the time the expenses were incurred, the beneficiary was enrolled in a plan under section 1833(a)(1)(A) or under section 1876.

"(B) TREATMENT OF DRUG BUY-OUT PLAN EXPENSES.—In the case of a medicare beneficiary enrolled in a month in a drug buy-out plan (as defined in subparagraph (D))—

"(i) expenses incurred by the beneficiary for covered outpatient drugs reimbursed under the plan shall not be counted towards the catastrophic drug deductible, but

"(ii) if the individual disenrolls from the plan during the year, the beneficiary is deemed to have incurred, for each month of such enrollment, expenses for covered outpatient drugs in an amount equal to the actuarial value (with respect to such month) of the deductible for covered outpatient drugs (as computed by the Secretary for purposes of section 1876(e)(1)) applicable on the average to individuals in the United States.

"(C) TREATMENT OF EXPENSES FOR COVERED OUTPATIENT DRUGS INCURRED WHILE ENROLLED IN A PREPAID PLAN OTHER THAN A DRUG BUY-OUT PLAN.—The Secretary may not enter into a contract with an organization under section 1876, or provide for payment under section 1833(a)(1)(A) with respect to an organization which provides reimbursement for covered outpatient drugs, with respect to a plan that is not a drug buy-out plan, unless the organization provides assurances, satisfactory to the Secretary, that—

"(i) the organization will maintain and make available, for its enrollees and in coordination with the appropriate carriers under this part, an accounting of expenses incurred by (or on behalf of) enrollees under the plan for covered outpatient drugs; and

"(ii) the organization will take into account, in any deductibles established under the plan in a year with respect to covered outpatient drugs under this part, the amounts of expenses for covered outpatient drugs incurred in the year by (or on behalf of) the beneficiary and otherwise counted towards the catastrophic drug deductible in the year.

"(D) DRUG BUY-OUT PLAN DEFINED.—In this paragraph, the term 'drug buy-out plan' means a plan under section 1833(a)(1)(A) or offered by an organization under section 1876 and with respect to which—

"(i) the amount of any deductible under the plan with respect to covered outpatient drugs under this title,

is less than 50 percent of—

"(ii) the catastrophic drug deductible specified in paragraph (1)(C).

"(E) MEDICARE BENEFICIARY DEFINED.—In this subsection, the term 'medicare beneficiary' means, with respect to a month, an individual covered for benefits under this part for the month.

"(F) TREATMENT OF PLAN CHARGES.—In the case of covered outpatient drugs furnished by an eligible organization under section 1876(b) or an organization described in section 1833(a)(1)(A) which does not impose charges on covered outpatient drugs dispensed to its members, for purposes of this subsection the actual charges of the organization shall be the organization's standard charges to members, and other individuals, not entitled to benefits with respect to such drugs.

"(7) PHYSICIAN GUIDE.—

"(A) IN GENERAL.—The Secretary shall develop, and update annually, an information guide for physicians concerning the comparative average wholesale prices of at least 500 of the most commonly prescribed covered outpatient drugs. Such guide shall, to the extent practicable, group covered outpatient drugs (including multiple source drugs) in a manner useful to physicians by therapeutic

category or with respect to the conditions for which they are prescribed. Such guide shall specify the average wholesale prices on the basis of the amount of the drug required for a typical daily therapeutic regimen.

"(B) MAILING GUIDE.—The Secretary shall provide for mailing, in January of each year (beginning with 1991), a copy of the guide developed and updated under subparagraph (A)—

"(i) to each hospital with an agreement in effect under section 1866,

"(ii) to each physician (as defined in section 1861(r)(1)) who routinely provides services under this part, and

"(iii) to Social Security offices, senior citizen centers, and other appropriate places.

"(8) REPORTS ON OUTLAYS AND RECEIPTS; SPECIAL COST CONTROLS.—

"(A) COMPILATION OF INFORMATION.—The Secretary shall compile information on—

"(i) manufacturers' prices for covered outpatient drugs, and on charges of pharmacists for covered outpatient drugs, and

"(ii) the use of covered outpatient drugs by individuals entitled to benefits under this part.

The information compiled under clause (i) shall include a comparison of the increases in prices and charges for covered outpatient drugs during each 6 month period (beginning with January 1987) with the semiannual average increase in such prices and charges during the 6 years beginning with 1981.

"(B) REPORTS.—The Secretary shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report, in May and November of 1989 and 1990 and in May of each succeeding year, providing the information compiled under subparagraph (A). For each such report submitted after 1991, the report shall include an explanation of the extent to which the increases in outlays for covered outpatient drugs under this part are due to the factors described in subparagraphs (A)(i) and (A)(ii).

"(C) MONTHLY REPORTS ON OUTLAYS AND RECEIPTS.—Within 30 days after the end of each month (beginning with October 1991 and ending with April 1993), the Secretary shall report to Congress on the outlays and receipts of the Federal Catastrophic Drug Insurance Trust Fund (in this paragraph referred to as the 'Trust Fund') in the month.

"(D) BUDGETARY INFORMATION.—

"(i) IN GENERAL.—In each report submitted under subparagraph (B) after 1991, the Secretary shall include information on—

"(I) the projected budgetary status of the Trust Fund for the succeeding year,

"(II) the projected increases in manufacturers' prices for covered outpatient drugs and in charges of pharmacists for covered outpatient drugs,

"(III) the projected level of utilization of covered outpatient drugs by medicare beneficiaries, and

"(IV) the projected administrative costs relating to covered outpatient drugs.

"(ii) DETERMINATION AND PUBLICATION OF ANY OUTLAY CONTROLS FOR 1993 AND 1994.—For each such report in 1992 and 1993, the Secretary—

"(I) shall determine in the report whether the anticipated outlays and receipts of the Trust Fund for the succeeding year will provide for at least the minimum contingency margin specified in subparagraph (F) for that succeeding year, and

"(II) if not, shall include in the report (and shall publish in the Federal Register by May 1 of the year a proposed regulation to carry out) changes in the provisions of this part (consistent with subparagraph (E)) in order to reduce outlays from the Trust Fund in that succeeding year sufficiently to provide for the minimum contingency margin specified in subparagraph (F).

Any changes described in subclause (II) in such report shall reflect appropriately each of the anticipated causes of increased or unanticipated outlays for covered outpatient drugs.

"(iii) EFFECTIVENESS OF REGULATORY CHANGES.—If proposed regulations are published under clause (ii)(II) in 1992 or 1993, during the last 3 days of September of such year, the Secretary shall publish in the Federal Register a final regulation to implement the changes described in such clause. Notwithstanding any other provision of this part, but subject to subparagraph (E) and unless otherwise provided by law, such changes shall become effective on January 1 of the succeeding year and shall apply only during that succeeding year. Such final regulation may not revise the proposed regulation in a manner that would result in a greater reduction in outlays than would have been the case under the proposed regulation.

"(E) LIMITATION ON CHANGES.—In making regulatory changes under subparagraph (D), the Secretary may not—

"(i) provide for a formulary (in violation of paragraph (5)(C));

"(ii) change the methodology for determining whether for a year an individual has met the catastrophic drug deductible established under paragraph (1)(A); or

"(iii) increase the coinsurance percent under paragraph (2)(C) for a year above the coinsurance percent in effect during the previous year.

Clause (ii) shall not be construed as prohibiting the Secretary from increasing the amount of the catastrophic drug deductible under paragraph (1)(A).

"(F) MINIMUM CONTINGENCY MARGIN DEFINED.—In this paragraph, the term 'minimum contingency margin' means—

"(i) for 1993, 50 percent, and

"(ii) for 1994, 25 percent.

Such margin shall be determined as of the close of each calendar year and shall be determined based on the total outlays from the Trust Fund during the year.

"(9) DEFINITIONS.—In this subsection:

"(A) MULTIPLE SOURCE DRUG.—

"(i) IN GENERAL.—The term 'multiple source drug' means, with respect to a payment calculation period, a covered outpatient drug for which there are 2 or more drug products which—

"(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations',

"(II) except as provided in clause (ii), are pharmaceutically equivalent and bioequivalent, as defined in clause (iii) and as determined by the Food and Drug Administration, and

"(III) are sold or marketed during the period.

"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply if the Food and Drug Administration changes by regulation (after an opportunity for public comment of 90 days) the requirement that, for purposes of the publication described in clause (i)(I), in order for drug products to be rated as therapeutically equivalent, they must be pharmaceutically equivalent and bioequivalent, as defined in clause (iii).

"(iii) DEFINITIONS.—For purposes of this subparagraph:

"(I) PHARMACEUTICALLY EQUIVALENT.—Drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity.

"(II) BIOEQUIVALENT.—Drugs are bioequivalent if they do not present a known or potential bioequivalence problem or, if they do present such a problem, are shown to meet an appropriate standard of bioequivalence.

"(III) SOLD OR MARKETED.—A drug is considered to be sold or marketed during a period if it is listed in the publications referred to in clause (i)(I), unless the Secretary determines that such sale or marketing is not actually taking place.

"(B) RESTRICTIVE PRESCRIPTION.—A drug has a 'restrictive prescription' only if—

"(i) in the case of a written prescription, the prescription for the drug indicates, in the handwriting of the physician or other person prescribing the drug and with an appropriate phrase (such as 'brand medically necessary') recognized by the Secretary, that the particular drug must be dispensed, or

"(ii) in the case of a prescription issued by telephone—

"(I) the physician or other person prescribing the drug (through use of such an appropriate phrase) states that the particular drug must be dispensed, and

"(II) the physician or other person submits to the pharmacy involved, within 30 days after the date of the telephone prescription, a written confirmation which is in the handwriting of the physician or other person prescribing the drug and which indicates with such appropriate phrase that the particular drug was required to have been dispensed.

"(C) PAYMENT CALCULATION PERIOD.—The term 'payment calculation period' means the 6-month period beginning with January of each year and the 6-month period beginning with July of each year.

"(D) OUTLAYS; RECEIPTS.—The terms 'outlays' and 'receipts' mean, with respect to a year or other period, gross outlays and receipts, as such terms are employed in the 'Monthly Treasury Statement of Receipts and Outlays of the United States Government (MTS)', as published by the Department of the Treasury, for months in such year or other period.".

(c) PARTICIPATING PHARMACIES; CIVIL MONEY PENALTIES.—

(1) PARTICIPATING PHARMACIES.—Section 1842 (42 U.S.C. 1395t) is amended—

(A) in subsection (h)(1), by inserting before the period at the end of the second sentence the following: ", except that, with respect to a supplier of covered outpatient drugs, the term 'participating supplier' means a participating pharmacy (as defined in subsection (o)(1))";

(B) in subsection (h)(4), is amended by adding at the end the following: "In publishing directories under this paragraph, the Secretary shall provide for separate directories (wherever appropriate) for participating pharmacies."; and

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

"(o)(1) For purposes of this section, the term 'participating pharmacy' means, with respect to covered outpatient drugs dispensed on or after January 1, 1991, an entity which is authorized under a State law to dispense covered outpatient drugs and which has entered into an agreement with

the Secretary, providing at least the following:

"(A) The entity agrees to accept payment under this part on an assignment-related basis for all covered outpatient drugs dispensed to an individual entitled to benefits under this part (in this subsection referred to as 'medicare beneficiaries') during a year after—

"(i) the Secretary has notified the entity, through the electronic system described in subparagraph (D)(i), or

"(ii) in the absence of such a system, the entity is otherwise notified that the Secretary has determined,

that the individual has met the catastrophic drug deductible with respect to such drugs under section 1834(c)(1) for the year.

"(B) The entity agrees—

"(i) not to refuse to dispense covered outpatient drugs items stocked by the entity to any medicare beneficiary, and

"(ii) not to charge medicare beneficiaries (regardless of whether or not the beneficiares are enrolled under a prepaid health plan or with eligible organization under section 1876) more for such drugs than the amount it charges to the general public (as determined by the Secretary in regulations).

"(C) The entity agrees to keep patient records (including records on expenses) for all covered outpatient drugs dispensed to all medicare beneficiaries.

"(D) The entity agrees to submit information (in a manner specified by the Secretary to be necessary to administer this title) on all purchases of covered outpatient drugs dispensed to medicare beneficiaries.

"(E) The entity agrees—

"(i) to offer to counsel, or to offer to provide information (consistent with State law respecting the provision of such information) to, each medicare beneficiary on the appropriate use of a drug to be dispensed and whether there are potential interactions between the drug and other drugs dispensed to the beneficiary; and

"(ii) to advise the beneficiary on the availability (consistent with State laws respecting substitution of drugs) of therapeutically equivalent covered outpatient drugs.

"(F) The entity agrees to provide the information requested by the Secretary in surveys under section 1834(c)(3)(C)(ii).

Nothing in this paragraph shall be construed as requiring a pharmacy operated by an eligible organization (described in section 1876(b)) or an organization described in section 1833(a)(1)(A) for the exclusive benefit of its members to dispense covered outpatient drugs to individuals who are not members of the organization.

"(2) The Secretary shall provide to each participating pharmacy—

"(A) a distinctive emblem (suitable for display to the public) indicating that the pharmacy is a participating pharmacy, and

"(B) upon request, such electronic equipment and technical assistance (other than the costs of obtaining, maintaining, or expanding telephone service) as the Secretary determines may be necessary for the pharmacy to submit claims using the electronic system established under paragraph (4).

"(3) The Secretary shall provide for periodic audits of participating pharmacies to assure—

"(A) compliance with the requirements for participation under this title, and

"(B) the accuracy of information submitted by the pharmacies under this title.

"(4) The Secretary shall establish, by not later than January 1, 1991, a point-of-sale electronic system for use by carriers and participating pharmacies in the submission of information respecting covered outpatient drugs dispensed to medicare beneficiaries under this part.

"(5) Notwithstanding subsection (b)(3)(B), payment for covered outpatient drugs may be made on the basis of an assignment described in clause (ii) of that subsection only to a participating pharmacy.".

(2) CIVIL MONEY PENALTIES FOR VIOLATION OF PARTICIPATION AGREEMENT, FOR EXCESSIVE CHARGES FOR NONPARTICIPATING PHARMACIES AND FOR FAILURE TO PROVIDE SURVEY INFORMATION.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1),

(B) in paragraph (2)(C), by inserting "or to be a participating pharmacy under section 1842(o)" after "1842(h)(1)",

(C) by striking ", or" at the end of paragraph (2) and inserting a semicolon,

(D) by adding "or" at the end of paragraph (3), and

(E) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a participating or nonparticipating pharmacy (as defined for purposes of part B of title XVIII)—

"(A) presents or causes to be presented to any person a request for payment for covered outpatient drugs dispensed to an individual entitled to benefits under part B of title XVIII and for which the amount charged by the pharmacy is greater than the amount the pharmacy charges the general public (as determined by the Secretary in regulations), or

"(B) fails to provide the information requested by the Secretary in a survey under section 1834(c)(3)(C)(ii);".

(d) LIMITATION ON LENGTH OF PRESCRIPTION.—Section 1862(c) (42 U.S.C. 1395y(c)) is amended—

(1) by redesignating subparagraphs (A) through (D) of paragraph (1) as clauses (i) through (iv), respectively;

(2) in paragraph (2)(A), by striking "paragraph (1)" and inserting "subparagraph (A)";

(3) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

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

(5) by inserting "(1)" after "(c)"; and

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

"(2) No payment may be made under part B for any expense incurred for a covered outpatient drug if the drug is dispensed in a quantity exceeding a supply of 30 days or such longer period of time (not to exceed 90 days, except in exceptional circumstances) as the Secretary may authorize.".

(e) USE OF CARRIERS, FISCAL INTERMEDIARIES, AND OTHER ENTITIES IN ADMINISTRATION.—

(1) AUTHORIZING USE OF OTHER ENTITIES IN ELECTRONIC CLAIMS SYSTEM.—Section 1842(f) (42 U.S.C. 1395u(f)) is amended—

(A) by striking "and" at the end of paragraph (1),

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

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

"(3) with respect to implementation and operation (and related functions) of the electronic system established under subsection (o)(4), a voluntary association, corporation, partnership, or other nongovernmental organization, which the Secretary determines to be qualified to conduct such activities.".

(2) ADDITIONAL FUNCTIONS OF CARRIERS.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)), as amended by section 201(c) of this Act, is amended—

(A) by striking "and" at the end of subparagraph (H), and

(B) by inserting after subparagraph (I) the following new subparagraphs:

"(J) if it makes determinations or payments with respect to covered outpatient drugs, will—

"(i) receive information transmitted under the electronic system established under subsection (o)(4), and

"(ii) respond to requests by participating pharmacies (and individuals entitled to benefits under this part) as to whether or not such an individual has met the catastrophic drug deductible established under section 1834(c)(1)(A) for a year; and

"(K) will enter into such contracts with organizations described in subsection (f)(3) as the Secretary determines may be necessary to implement and operate (and for related functions with respect to) the electronic system established under subsection (o)(4) for covered outpatient drugs under this part;".

(3) SPECIAL CONTRACT PROVISIONS FOR ELECTRONIC CLAIMS SYSTEM.—

(A) PAYMENT ON OTHER THAN A COST BASIS.—Section 1842(c)(1)(A) is amended—

(i) by inserting "(i)" after "(c)(1)(A)",

(ii) in the first sentence, by inserting ", except as provided in clause (ii)," after "under this part, and", and

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

"(ii) To the extent that a contract under this section provides for implementation and operation (and related functions) of the electronic system established under subsection (o)(4) for covered outpatient drugs, the Secretary may provide for payment for such activities based on any method of payment determined by the Secretary to be appropriate.".

(B) APPLICATION OF DIFFERENT PERFORMANCE STANDARDS.—The Secretary of Health and Human Services, before entering into contracts under section 1842 of the Social Security Act with respect to the implementation and operation (and related functions) of the electronic system for covered outpatient drugs, shall establish standards with respect to performance with respect to such activities. The provisions of section 1153(e)(2), and paragraphs (1) and (2) of section 1153(h), of such Act shall apply to such activities in the same manner as they apply to contracts with peer review organizations, instead of the requirements of the last 2 sentences of section 1842(b)(2) of such Act.

(C) USE OF REGIONAL CARRIERS.—Section 1842(b)(2) is amended by adding at the end the following new sentence: "With respect to activities relating to implementation and operation (and related functions) of the electronic system established under subsection (o)(4), the Secretary may enter into contracts with carriers under this section to perform such activities on a regional basis.".

(4) ADJUSTMENT OF CARRIER OBLIGATIONS.—

(A) NO TOLL-FREE TELEPHONE NUMBER REQUIRED OF LIMITED CARRIERS.—Section 1842(h)(2) (42 U.S.C. 1395u(h)(2)) is amended by inserting "(other than a carrier described in subsection (f)(3))" after "Each carrier".

(B) DELAY IN APPLICATION OF COORDINATED BENEFITS WITH MEDIGAP.—The provisions of subparagraph (B) of section 1842(h)(3) of the Social Security Act shall not apply to

covered outpatient drugs (other than drugs described in section 1861(s)(2)(J) of such Act as of the date of the enactment of this Act) dispensed before January 1, 1993.

(5) BATCH PROMPT PROCESSING OF CLAIMS.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended—

(A) in paragraphs (2)(A) and (3)(A), by striking "Each" and inserting "Except as provided in paragraph (3), each";

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

"(4)(A) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), with respect to claims for payment for covered outpatient drugs shall provide for a payment cycle under which each carrier will, on a monthly basis, make a payment with respect to all claims which were received and approved for payment in the period since the most recent date on which such a payment was made with respect to the participating pharmacy or individual submitting the claim.

"(B) If payment is not issued, mailed, or otherwise transmitted within 5 days of when such a payment is required to be made under subparagraph (A), interest shall be paid at the rate used for purposes of section 3902(a) of title 31, United States Code (relating to interest penalties for failure to make prompt payments) for the period beginning on the day after such 5-day period and ending on the date on which payment is made.".

(f) MODIFICATION OF HMO/CMP CONTRACTS.—

(1) SEPARATE ACTUARIAL DETERMINATION FOR COVERED OUTPATIENT DRUG BENEFIT.—Section 1876(e)(1) (42 U.S.C. 1395mm(e)(1)) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall be applied separately with respect to covered outpatient drugs.".

(2) ADDITIONAL OPTIONAL BENEFITS.—Section 1876(g)(3)(A) (42 U.S.C. 1395mm(g)(3)(A)) is amended by striking "rate" and inserting "rates".

(g) REQUIRING SUBMISSION OF DIAGNOSTIC INFORMATION.—Section 1842 (42 U.S.C. 1395u), as amended by subsection (c)(1)(D), is amended by adding at the end the following new subsection:

"(p)(1) Each request for payment, or bill submitted, for an item or service furnished by a physician for which payment may be made under this part shall include the appropriate diagnosis code (or codes) as established by the Secretary for such item or service.

"(2) In the case of a request for payment for an item or service furnished by a physician on an assignment-related basis which does not include the code (or codes) required under paragraph (1), payment may be denied under this part.

"(3) In the case of a request for payment for an item or service furnished by a physician not submitted on an assignment-related basis and which does not include the code (or codes) required under paragraph (1)—

"(A) if the physician knowingly and willfully fails to provide the code (or codes) promptly upon request of the Secretary or a carrier, the physician may be subject to a civil money penalty in an amount not to exceed $2,000, and

"(B) if the physician knowingly, willfully, and in repeated cases fails, after being notified by the Secretary of the obligations and requirements of this subsection, to include the code (or codes) required under paragraph (1), the physician may be subject to the sanction described in section 1842(j)(2)(A).

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 they apply to a penalty or proceeding under section 1128A(a).".

(h) CONFORMING AMENDMENTS.—

(1) The first sentence of section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended—

(A) by inserting "1834(c)," after "1833(b)," and

(B) by inserting "and in the case of covered outpatient drugs, applicable coinsurance percent (specified in section 1834(c)(2)(C)) of the lesser of the actual charges for the drugs or the payment limit (established under section 1834(c)(3))" after "established by the Secretary".

(2) Section 1903(i)(5) (42 U.S.C. 1396b(i)(5)) is amended by striking "section 1862(c)" and inserting "section 1862(c)(1)".

(i) REPORTS ON MEDICARE BENEFICIARY DRUG EXPENSES.—

(1) HHS.—The Secretary of Health and Human Services, by not later than April 1, 1989—

(A) using data from the 1987 National Medical Expenditures Survey (conducted by the National Center for Health Services Research and Health Care Technology Assessment), shall report to Congress on expenses incurred by medicare beneficiaries for outpatient prescription drugs, and

(B) shall provide the Director of the Congressional Budget Office with such data from that Survey as the Director may request to make the estimates required under paragraph (2).

(2) REESTIMATION OF COSTS.—The Director of the Congressional Budget Office shall transmit to the Congress, not later than June 1, 1989, or, if later, 60 days after the date of providing data requested under paragraph (1)(B), the Director's estimate of the outlays which will be made (in each of fiscal years 1990, 1991, 1992, and 1993) under the medicare program for covered outpatient drugs (under the amendments made by this section).

(j) PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION.—Part B is amended by adding at the end the following new section:

"PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION

"SEC. 1847. (a)(1) The Director of the Congressional Office of Technology Assessment (in this section referred to as the 'Director' and the 'Office', respectively) shall provide for the appointment of a Prescription Drug Payment Review Commission (in this section referred to as the 'Commission'), to be composed of individuals with expertise in the provision and financing of covered outpatient drugs appointed by the Director (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service).

"(2) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed by no later than January 1, 1989, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 4 members expire in any one year.

"(3) The membership of the Commission shall include recognized experts in the fields of health care economics, medicine, pharmacology, pharmacy, and prescription drug reimbursement, as well as at least one individual who is a medicare beneficiary.

"(b)(1) The Commission shall submit to Congress an annual report no later than May 1 of each year, beginning with 1990, concerning methods of determining payment for covered outpatient drugs under this part.

"(2) Such report, in 1992 and thereafter, shall include, with respect to the previous year, information on—

"(A) increases in manufacturers' prices for covered outpatient drugs and in charges of pharmacists for covered outpatient drugs,

"(B) the level of utilization of covered outpatient drugs by medicare beneficiaries, and

"(C) administrative costs relating to covered outpatient drugs.

"(3) Such report, in 1992 and thereafter, shall include comments on the budgetary status of the Federal Catastrophic Drug Insurance Trust Fund and recommendations for any reductions in outlays that may be required to achieve the contingency margin (established under section 1841A(d) for the following year, taking into account each of the causes of increased or unanticipated outlays for covered outpatient drugs in the year.

"(c) Section 1845(c)(1) shall apply to the Commission in the same manner as it applies to the Physician Payment Review Commission.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall be payable from the Federal Catastrophic Drug Insurance Trust Fund.".

(k) ADDITIONAL STUDIES.—

(1) HHS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct the following studies, and report to Congress on the results of each such study by the following dates:

(A) A study of the possibility of including drugs which have not yet been approved under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act and biological products which have not been licensed under section 351 of the Public Health Service Act but which are commonly used in the treatment of cancer or in immunosuppressive therapy and other experimental drugs and biological products as covered outpatient drugs under the medicare program, for which a report shall be made by January 1, 1990. The study under this subparagraph shall be conducted in consultation with an advisory board of consumers, experts in the fields of cancer chemotherapy and immunosuppressive therapy, representatives of pharmaceutical manufacturers, and such other individuals as the Secretary may select.

(B) A study to evaluate the potential to use mail service pharmacies to reduce costs to the medicare program and to medicare beneficiaries, for which a report shall be made by January 1, 1990.

(C) A study of methods to improve utilization review of covered outpatient drugs, for which the report shall be made by January 1, 1993.

(D) A longitudinal study, to be conducted as a follow-up to the data collected under the survey referred to in subsection (j)(1)(A), on the use of outpatient prescription drugs by medicare beneficiaries with respect to medical necessity, potential for adverse drug interactions, cost (including whether lower cost drugs could have been used), and patient stockpiling or wastage, for which a report shall be made by January 1, 1993.

(2) GAO.—The Comptroller General shall conduct the following studies, and report to Congress on the results of each such study by not later than May 1, 1991:

(A) A study comparing average wholesale prices with actual pharmacy acquisition costs by type of pharmacy.

(B) A study to determine the overhead costs of retail pharmacies.

(C) A study of the discounts given by pharmacies to other third-party insurers.

Pharmacies which fail to provide the Comptroller General with reasonable access to necessary records to carry out the studies under this paragraph are subject to exclusion from the medicare and medicaid programs under section 1128(a) of the Social Security Act.

(l) DEVELOPMENT OF STANDARD MEDICARE CLAIMS FORM.—

(1) The Secretary shall develop, in consultation with representatives of pharmacies and other interested individuals, a standard claims form (and a standard electronic claims format) to be used in requests for payment for covered outpatient drugs under the medicare program and other third-party payors.

(2) Not later than October 1, 1989, the Secretary shall distribute official sample copies of the format developed under paragraph (1) to pharmacies and other interested parties and by not later than October 1, 1990, shall distribute official sample copies of the form developed under paragraph (1) to pharmacies and other interested parties.

(m) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to items dispensed on or after January 1, 1990.

(2) CARRIERS.—The amendments made by subsection (e) shall take effect on the date of the enactment of this Act; except that the amendments made by subsection (e)(5) shall take effect on January 1, 1991, but shall not be construed as requiring payment before February 1, 1991.

(3) HMO/CMP ENROLLMENTS.—The amendment made by subsection (f) shall apply to enrollments effected on or after January 1, 1990.

(4) DIAGNOSTIC CODING.—The amendment made by subsection (g) shall apply to services furnished after March 31, 1989.

(5) TRANSITION.—With respect to administrative expenses (and costs of the Prescription Drug Payment Review Commission) for periods before January 1, 1990, amounts otherwise payable from the Federal Catastrophic Drug Insurance Trust Fund shall be payable from the Federal Supplementary Medical Insurance Trust Fund and shall also be treated as a debit to the Medicare Catastrophic Coverage Account.

SEC. 203. COVERAGE OF HOME INTRAVENOUS DRUG THERAPY SERVICES.

(a) IN GENERAL.—Section 1832(a)(2)(A) (42 U.S.C. 1395k(a)(2)(A)) is amended by inserting "and home intravenous drug therapy services" before the semicolon.

(b) HOME INTRAVENOUS DRUG THERAPY SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"(jj)(1) The term 'home intravenous drug therapy services' means the items and services described in paragraph (2) furnished to an individual who is under the care of a physician—

"(A) in a place of residence used as such individual's home;

"(B) by a qualified home intravenous drug therapy provider (as defined in paragraph (3)) or by others under arrangements with them made by such provider; and

"(C) under a plan established and periodically reviewed by a physician.

"(2) The items and services described in this paragraph are such nursing, pharmacy, and related services (including medical supplies, intravenous fluids, delivery, and equipment) as are necessary to conduct safely and effectively an intravenously administered drug regimen through use of a covered home IV drug (as defined in subsection (t)(4)), but do not include such covered outpatient drugs.

"(3) The term 'qualified home intravenous drug therapy provider' means any entity that the Secretary determines meets the following requirements:

"(i) The entity is capable of providing or arranging for the items and services described in paragraph (2) and covered home IV drugs.

"(ii) The entity maintains clinical records on all patients.

"(iii) The entity adheres to written protocols and policies with respect to the provision of items and services.

"(iv) The entity makes services available (as needed) seven days a week on a 24-hour basis.

"(v) The entity coordinates all services with the patient's physician.

"(vi) The entity conducts a quality assessment and assurance program, including drug regimen review and coordination of patient care.

"(vii) The entity assures that only trained personnel provide covered home IV drugs (and any other service for which training is required to safely provide the service).

"(viii) The entity assumes responsibility for the quality of services provided by others under arrangements with the agency or entity.

"(ix) In the case of an entity in any State in which State or applicable local law provides for the licensing of entities of this nature, (I) is licensed pursuant to such law, or (II) is approved, by the agency of such State or locality responsible for licensing entities of this nature, as meeting the standards established for such licensing.

"(x) The entity meets such other requirements as the Secretary may determine are necessary to assure the safe and effective provision of home intravenous drug therapy services and the efficient administration of the home intravenous drug therapy benefit.".

(c) PAYMENT.—

(1) IN GENERAL.—Part B is amended—

(A) in subsection (a)(2)(B) of section 1833 (42 U.S.C. 1395l), by striking "or (E)" and inserting "(E), or (F)";

(B) in subsection (a)(2)(D) of such section, by striking "and" at the end;

(C) in subsection (a)(2)(E) of such section, by striking the semicolon and inserting "; and";

(D) by inserting after subsection (a)(2)(E) of such section the following new subparagraph:

"(F) with respect to home intravenous drug therapy services, the amounts described in section 1834(d)(1);"

(E) in subsection (b) of such section, by striking "services, (3)" and inserting "services and home intravenous drug therapy services, (3)"; and

(F) by adding at the end of section 1834, as amended by section 202(b)(3) of this Act, the following new subsection:

"(d) HOME INTRAVENOUS DRUG THERAPY SERVICES.—

"(1) IN GENERAL.—With respect to home intravenous drug therapy services, subject to paragraph (3), payment under this part shall be made in an amount equal to the lesser of the actual charges for such services or the fee schedule established under paragraph (2).

"(2) ESTABLISHMENT OF FEE SCHEDULE.—The Secretary shall establish by regulation before the beginning of calendar year 1990 and each succeeding calendar year a fee schedule for home intravenous drug therapy services for which payment is made under this part. A fee schedule established under this subsection shall be on a per diem basis.

"(3) LIMITATION ON ACCEPTANCE OF, AND PAYMENTS FOR, CERTAIN REFERRALS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a home intravenous drug therapy provider may not provide home intravenous drug therapy services under this part to an individual if the individual's referring physician (as defined in subparagraph (D)), or an immediate family member of the physician—

"(i) has an ownership interest in the provider, or

"(ii) receives compensation from the provider.

"(B) EXCEPTIONS.—

"(i) Subparagraph (A)(i) shall not apply—

"(I) if the ownership interest is the ownership of stock which is traded over a publicly-regulated exchange and was purchased on terms generally available to the public, or

"(II) if the provider is a sole home intravenous drug therapy provider (as defined by the Secretary) in a rural area.

"(ii) Subparagraph (A)(ii) shall not apply if the compensation is reasonably related to items or services actually provided by the physician and does not vary in proportion to the number of referrals made by the referring physician, but such exception shall not apply to compensation provided for direct patient care services.

"(iii) Subparagraph (A) shall not be construed to apply to a referring physician whose only ownership or financial relationship with the provider is as an uncompensated officer or director of the provider.

"(iv) Subparagraph (A) also shall not apply in such cases, established by the Secretary in regulations, in which the nature of the ownership or compensation does not pose a substantial risk of program abuse.

"(C) SANCTIONS.—

"(i) DENIAL OF PAYMENT.—No payment may be made under this part for home intravenous drug therapy services which are provided in violation of subparagraph (A).

"(ii) CIVIL MONEY PENALTY FOR IMPROPER CLAIMS.—Any person (including a home intravenous drug therapy provider or physician) that presents or causes to be presented a claim for an item or service that such person knows or should know is for an item or service for which payment may not be made under subparagraph (A) shall be subject to a civil money penalty of not more than $15,000 for each such item or service. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (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).

"(D) REFERRING PHYSICIAN DEFINED.—In this paragraph, the term 'referring physician' means, with respect to providing home intravenous drug therapy services to an individual, a physician who—

"(i) prescribed the covered home IV drug for which the services are to be provided, or

"(ii) established the plan of care for such services.".

(2) PROPAC STUDY.—The Prospective Payment Assessment Commission shall conduct a study, and make recommendations to Congress and the Secretary of Health and Human Services by not later than March 1, 1991, concerning appropriate adjustment to the payment amounts provided under section 1886(d) of the Social Security Act for inpatient hospital services to account for reduced costs to hospitals resulting from the amendments made by this section.

(3) INSPECTOR GENERAL REPORT ON POTENTIALLY ABUSIVE OWNERSHIP OR COMPENSATION ARRANGEMENTS.—The Inspector General of the Department of Health and Human Services shall study and report to Congress, by not later than May 1, 1989, concerning—

(A) physician ownership of, or compensation from, an entity providing items or services to which the physician makes referrals and for which payment may be made under the medicare program;

(B) the range of such arrangements and the means by which they are marketed to physicians;

(C) the potential of such ownership or compensation to influence the decision of a physician regarding referrals and to lead to inappropriate utilization of such items and services; and

(D) the practical difficulties involved in enforcement actions against such ownership and compensation arrangements that violate current anti-kickback provisions.

Such report shall include such recommendations as may be appropriate to strengthen current law provisions to prevent program abuse.

(d) CERTIFICATION.—

(1) IN GENERAL.—Section 1835(a)(2) (42 U.S.C. 1395n(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (E);

(B) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(C) by inserting after subparagraph (F) the following new subparagraph:

"(G) in the case of home intravenous drug therapy services, (i) such services are or were required because the individual needed such services for the administration of a covered home IV drug, (ii) a plan for furnishing such services has been established and is reviewed periodically by a physician, (iii) such services are or were furnished while the individual is or was under the care of a physician, (iv) such services are administered in a place of residence used as such individual's home, and (v) with respect to such services initiated before January 1, 1993, such services have been reviewed and approved by a utilization and peer review organization under section 1154(a)(16) before the date such services were initiated (or, in the case of services first initiated on an outpatient basis, within 1 working day (except in exceptional circumstances) of the date of initiation of the services).".

(2) PRO PRIOR APPROVAL REQUIRED.—Section 1154(a) (42 U.S.C. 1320c-3(a)) is amended by adding at the end the following new paragraph:

"(16) The organization shall perform the review described in paragraph (1) with respect to home intravenous drug therapy services (as defined in section 1861(jj)(1)) initiated before January 1, 1993, within 1 working day of the date of the organization's receipt of a request for such review. The Secretary shall establish criteria to be used by such an organization in conducting reviews with respect to the appropriateness of home intravenous drug therapy services under this paragraph.".

(e) CERTIFICATION OF HOME INTRAVENOUS DRUG THERAPY PROVIDERS; INTERMEDIATE SANCTIONS FOR NONCOMPLIANCE.—

(1) TREATMENT AS PROVIDER OF SERVICES.—Section 1861(u) (42 U.S.C. 1395x(u)) is amended by inserting "home intravenous drug therapy provider," after "hospice program,".

(2) CONSULTATION WITH STATE AGENCIES AND OTHER ORGANIZATIONS.—Section 1863 (42 U.S.C. 1395z) is amended by striking "and (dd)(2)" and inserting "(dd)(2), and (jj)(3)".

(3) USE OF STATE AGENCIES IN DETERMINING COMPLIANCE.—Section 1864(a) (42 U.S.C. 1395aa(a)) is amended—

(A) in the first sentence, by inserting "or a home intravenous drug therapy provider," after "hospice program", and

(B) in the second sentence, by striking "or hospice program" and inserting "hospice program, or home intravenous drug therapy provider".

(4) APPLICATION OF INTERMEDIATE SANCTIONS.—Section 1846 (42 U.S.C. 1395w-2) is amended—

(A) in the heading, by adding "AND FOR QUALIFIED HOME INTRAVENOUS DRUG THERAPY PROVIDERS" at the end;

(B) in subsection (a), by inserting "or that a qualified home intravenous drug therapy provider that is certified for participation under this title no longer substantially meets the requirements of section 1861(jj)(3)" after "under this part"; and

(C) in subsection (b)(2)(A)(iv) by inserting "or home intravenous drug therapy services" after "clinical diagnostic laboratory tests".

(f) USE OF REGIONAL INTERMEDIARIES IN ADMINISTRATION OF BENEFIT.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end thereof the following new subsection:

"(k) With respect to carrying out functions relating to payment for home intravenous drug therapy services and covered home IV drugs, the Secretary may enter into contracts with agencies or organizations under this section to perform such functions on a regional basis.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1990.

SEC. 204. COVERAGE OF SCREENING MAMMOGRAPHY.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) in subsection (s)—

(A) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively,

(B) by striking "and" at the end of paragraph (11),

(C) by striking the period at the end of paragraph (12) and inserting "; and", and

(D) by inserting after paragraph (12) the following new paragraph:

"(13) screening mammography (as defined in subsection (kk)).'; and

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

"Screening Mammography

"(kk) The term 'screening mammography' means a radiologic procedure provided to a woman for the purpose of early detection of breast cancer and includes a physician's interpretation of the results of the procedure.".

(b) PAYMENT AND COVERAGE.—Section 1834 (42 U.S.C. 1395m), as amended by sections 202(b)(3) and 203(c)(1)(F) of this Act, is amended—

(1) in subsection (b)(1)(B), by inserting "and subject to subsection (e)(1)(A)" after "conversion factors", and

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

"(e) PAYMENTS AND STANDARDS FOR SCREENING MAMMOGRAPHY.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part (except as provided in section 1833(c)), with respect to expenses incurred for screening mammography (as defined in section 1861(kk))—

"(A) payment may be made only for screening mammography conducted consistent with the frequency permitted under paragraph (2);

"(B) payment may be made only if the screening mammography meets the quality standards established under paragraph (3); and

"(C) the amount of the payment under this part shall, subject to the deductible established under section 1833(b), be equal to 80 percent of the least of—

"(i) the actual charge for the screening,

"(ii) the fee schedule established under subsection (b) with respect to both the professional and technical components of the screening mammography, in the case of screening mammography subject to such schedule but for this paragraph, or

"(iii) the limit established under paragraph (4) for the screening mammography.

"(2) FREQUENCY COVERED.—

"(A) IN GENERAL.—Subject to revision by the Secretary under subparagraph (B)—

"(i) No payment may be made under this part for screening mammography performed on a woman under 35 years of age.

"(ii) Payment may be made under this part for only 1 screening mammography performed on a woman over 34 years of age, but under 40 years of age.

"(iii) In the case of a woman over 39 years of age, but under 50 years of age, who—

"(I) is at a high risk of developing breast cancer (as determined pursuant to factors identified by the Secretary), payment may not be made under this part for a screening mammography performed within the 11 months of a previous screening mammography, or

"(II) is not at a high risk of developing breast cancer, payment may not be made under this part for a screening mammography performed within the 23 months after a previous screening mammography.

"(iv) In the case of a woman over 49 years of age, but under 65 years of age, payment may not be made under this part for screening mammography performed within 11 months after a previous screening mammography.

"(v) In the case of a woman over 64 years of age, payment may not be made for screening mammography performed within 23 months after a previous screening mammography.

"(B) REVISION OF FREQUENCY.—

"(i) REVIEW.—The Secretary, in consultation with the Director of the National Cancer Institute, shall review periodically the appropriate frequency for performing screening mammography, based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which screening mammography may be paid for under this subsection, but no such revision shall apply to screening mammography performed before January 1, 1992.

"(3) QUALITY STANDARDS.—The Secretary shall establish standards to assure the safety and accuracy of screening mammography

performed under this part. Such standards shall include the requirements that—

"(A) the equipment used to perform the mammography must be specifically designed for mammography and must meet radiologic standards established by the Secretary for mammography;

"(B) the mammography must be performed by an individual who—

"(i) is licensed by a State to perform radiological procedures, or

"(ii) is certified as qualified to perform radiological procedures by such an appropriate organization as the Secretary specifies in regulations;

"(C) the results of the mammography must be interpreted by a physician—

"(i) who is certified as qualified to interpret radiological procedures by such an appropriate board as the Secretary specifies in regulations, or

"(ii) who is certified as qualified to interpret screening mammography procedures by such a program as the Secretary recognizes in regulation as assuring the qualifications of the individual with respect to such interpretation; and

"(D) with respect to the first screening mammography performed on a woman for which payment is made under this part, there are satisfactory assurances that the results of the mammography will be placed in permanent medical records maintained with respect to the woman.

"(4) LIMIT.—

"(A) $50, INDEXED.—Except as provided by the Secretary under subparagraph (B), the limit established under this paragraph—

"(i) for screening mammography performed in 1990, is $50, and

"(ii) for screening mammography performed in a subsequent year is the limit established under this paragraph for the preceding year increased by the percentage increase in the MEI for that subsequent year.

"(B) REDUCTION OF LIMIT.—The Secretary shall review from time to time the appropriateness of the amount of the limit established under this paragraph. The Secretary may, with respect to screening mammography performed in a year after 1991, reduce the amount of such limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that screening mammography of an appropriate quality is readily and conveniently available during the year.

"(C) APPLICATION OF LIMIT IN HOSPITAL OUTPATIENT SETTING.—The Secretary shall provide for an appropriate allocation of the limit established under this paragraph between professional and technical components in the case of hospital outpatient screening mammography (and comparable situations) where there is a claim for professional services separate from the claim for the radiologic procedure.

"(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of mammography screening performed on or after January 1, 1990, for which payment is made under this subsection, if a nonparticipating physician or supplier provides the screening to an individual entitled to benefits under this part, the physician or supplier may not charge the individual more than the limiting charge (as defined in subparagraph (B), or, if applicable and if less, as defined in subsection (b)(5)(B)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' means, with respect to screening mammography performed—

"(i) in 1990, 125 percent of the limit established under paragraph (4),

"(ii) in 1991, 120 percent of the limit established under paragraph (4), and

"(iii) after 1991, 115 percent of the limit established under paragraph (4).

"(C) ENFORCEMENT.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

(c) CERTIFICATION OF SCREENING MAMMOGRAPHY QUALITY STANDARDS.—

(1) Section 1863 (42 U.S.C. 1395z) is amended by inserting "or whether screening mammography meets the standards established under section 1834(e)(3)," after "1832(a)(2)(F)(i),".

(2) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by inserting before the period the following: ", or whether screening mammography meets the standards established under section 1834(e)(3)".

(3) Section 1865(a) (42 U.S.C. 1395bb(a)) is amended by inserting "1834(e)(3)," after "1832(a)(2)(F)(i),".

(d) CONFORMING AMENDMENTS.—

(1) Section 1833(a)(2)(E) (42 U.S.C. 1395l(a)(2)(E)) is amended by inserting ", but excluding screening mammography" after "imaging services".

(2) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "subparagraph (B), (C), (D), or (E)" and inserting "a succeeding subparagraph",

(ii) in subparagraph (D), by striking "and" at the end,

(iii) in subparagraph (E), by striking the semicolon at the end and inserting ", and", and

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

"(F) in the case of screening mammography, which is performed more frequently than is covered under section 1834(e)(2) or which does not meet the standards established under section 1834(e)(3);"; and

(B) in paragraph (7), by inserting "or under paragraph (1)(F)" after "(1)(B)".

(3) Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) (42 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), 1396n(a)(1)(B)(ii)(I)) are each amended by striking "paragraphs (13) and (14)" and inserting "paragraphs (14) and (15)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to screening mammography performed on or after January 1, 1990. Paragraph (5) of section 1834(e) of the Social Security Act shall only apply until such time as the Secretary of Health and Human Services implements the physician fee schedules based on relative value scale developed under section 1845(e) of such Act.

(f) REPORTS.—

(1) The Physician Payment Review Commission shall study and report, by July 1, 1989, to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate concerning the cost of providing screening mammography in a variety of settings and at different volume levels.

(2) The Comptroller General shall study and report, by July 1, 1989, to the Committees specified in paragraph (1) concerning the quality of care of screening mammography in a variety of settings.

SEC. 205. IN-HOME CARE FOR CERTAIN CHRONICALLY DEPENDENT INDIVIDUALS.

(a) IN GENERAL.—Section 1832(a) (42 U.S.C. 1395k(a)) is amended—

(1) in paragraph (2)(A)—

(A) by inserting "(i)" after "(A)", and

(B) by inserting before the semicolon at the end the following: ", and (ii) in-home care for a chronically dependent individual for up to 80 hours in any 12-month period described in section 1861(ll)(4), but not to exceed 80 hours in any calendar year;"; and

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

"In the case of in-home care (described in paragraph (2)(A)(ii)) provided to a chronically dependent individual on any day, such care provided for 3 hours or less on the day shall be counted (for purposes of the limitation in such paragraph) as 3 hours of such care.".

(b) IN-HOME CARE FOR CHRONICALLY DEPENDENT INDIVIDUAL DEFINED.—Section 1861 (42 U.S.C. 1395x), as amended by section 204(a)(2), is amended by adding at the end the following new subsection:

"In-Home Care; Chronically Dependent Individual

"(ll)(1) The term 'in-home care' means the following items and services furnished, under the supervision of a registered professional nurse, to a chronically dependent individual (as defined in paragraph (2)) during the period described in paragraph (4) by a home health agency or by others under arrangements with them made by such agency in a place of residence used as such individual's home:

"(A) Services of a homemaker/home health aide (who has successfully completed a training program approved by the Secretary).

"(B) Personal care services.

"(C) Nursing care provided by a licensed professional nurse.

"(2) The term 'chronically dependent individual' means an individual who—

"(A) is dependent on a daily basis on a primary caregiver who is living with the individual and is assisting the individual without monetary compensation in the performance of at least 2 of the activities of daily living (described in paragraph (3)), and

"(B) without such assistance could not perform such activities of daily living.

"(3) The 'activities of daily living', referred to in paragraph (2), are as follows:

"(i) Eating.

"(ii) Bathing.

"(iii) Dressing.

"(iv) Toileting.

"(v) Transferring in and out of a bed or in and out of a chair.

"(4) The 12-month period described in this paragraph is the 1-year period beginning on the date that the Secretary determines that a chronically dependent individual either—

"(A) has become entitled to benefits under section 1833(c) (relating to having incurred out-of-pocket part B cost sharing equal to the part B catastrophic limit), or

"(B) has become entitled to have payments made for covered outpatient drugs under section 1834(c).

In the case of an individual who qualifies under subparagraph (A) or (B) within 12 months after previously qualifying, the subsequent qualification shall begin a new 12-month period under this paragraph. In the case of an individual enrolled in a buy-out plan (as defined in section 1833(c)(5)(D)) or a drug buy-out plan (as defined in section

1834(c)(6)(D)), the Secretary shall establish such procedures as may be appropriate to identify individuals who are deemed to be described in subparagraph (A) or (B), respectively, for purposes of the provision of in-home care under the plan.

(c) PAYMENT.—Section 1833(a) (42 U.S.C. 1395l(a)) is amended—

(1) in paragraph (2), by inserting "(A)(ii)," after "subparagraphs" the first place it appears,

(2) in paragraph (3), by striking "(D)" and inserting "(A)(ii), (D),", and

(3) by adding at the end the following:

"Payment for in-home care for chronically dependent individuals shall be paid on the basis of an hour of such care provided. In applying paragraph (2) in the case of an organization receiving payment under clause (A) of paragraph (1) or under a reasonable cost reimbursement contract under section 1876 and providing coverage of in-home care, the Secretary shall provide for an appropriate adjustment in the payment amounts otherwise made to reflect the aggregate increase in payments that would otherwise be made with respect to enrollees in the organization if payments were made other than under such clause or such a contract if payments were to be made on an individual-by-individual basis.".

(d) CERTIFICATION.—Section 1835(a)(2) (42 U.S.C. 1395n(a)(2)), as amended by section 203(d), is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by striking the period at the end of subparagraph (G) and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (G) the following new subparagraph:

"(H) in the case of in-home care provided to a chronically dependent individual during a 12-month period, the individual was a chronically dependent individual during the 3-month period immediately preceding the beginning of the 12-month period.".

(e) STANDARDS FOR UTILIZATION.—

(1) Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 204(d)(2), is amended—

(A) in paragraph (1)—

(i) by striking "and" at the end of subparagraph (E),

(ii) by adding "and" at the end of subparagraph (F), and

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

"(G) in the case of in-home care for chronically dependent individuals, which is not reasonable and necessary to assure the health and condition of the individual is maintained in the individual's noninstitutional residence;"; and

(B) in paragraph (6), by inserting "and except, in the case of in-home care, as is otherwise permitted under paragraph (1)(F)" after "paragraph (1)(C)".

(2) The Secretary of Health and Human Services shall take appropriate efforts to assure the quality, and provide for appropriate utilization of, in-home care for chronically dependent individuals under the amendments made by this section.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1990.

(g) STUDY OF ALTERNATIVE OUT-OF-HOME SERVICES.—The Secretary of Health and Human Services shall study, and report to Congress, not later than 18 months after the date of the enactment of this Act, on the advisability of providing, to chronically dependent individuals eligible for in-home care under the amendments made by this section, out-of-home services (such as adult day care services or nursing facility services) as alternative services to in-home care.

SEC. 206. EXTENDING HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1861(m) (42 U.S.C. 1395x(m)) is amended by adding at the end the following new sentence: "For purposes of paragraphs (1) and (4) and sections 1814(a)(2)(C) and 1835(a)(2)(A), nursing care and home health aide services shall be considered to be provided or needed on an 'intermittent' basis if they are provided or needed less than 7 days each week and, in the case they are provided or needed for 7 days each week, if they are provided or needed for a period of up to 38 consecutive days.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished in cases of initial periods of home health services beginning on or after January 1, 1990.

SEC. 207. RESEARCH ON LONG-TERM CARE SERVICES FOR MEDICARE BENEFICIARIES.

(a) IN GENERAL.—The Secretary of Health and Human Services, from the funds appropriated under subsection (b), shall provide for research on issues relating to the delivery and financing of long-term care services for medicare beneficiaries. Such research shall include research into at least the following areas:

(1) The financial characteristics of medicare beneficiaries who receive or need long-term care services, including whether such beneficiaries are eligible for medicaid benefits for such services.

(2) How the financial and other characteristics of medicare beneficiaries affect their utilization of institutional and noninstitutional long-term care services.

(3) How relatives of medicare beneficiaries are affected financially and in other ways because the beneficiaries require or receive long-term care services.

(4) The quality of long-term care services (in community-based and custodial settings) and how the provision of long-term care services may reduce expenditures for acute health care services.

(5) The effectiveness of, and need for, State and Federal consumer protections which assure adequate access to and protect the rights of medicare beneficiaries who are provided long-term care services (other than in a nursing facility).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in equal parts from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, $5,000,000 for each of fiscal years 1989, 1990, 1991, 1992, and 1993 to carry out the research described in subsection (a).

(c) LONG-TERM CARE SERVICES DEFINED.—In this section, the term "long-term care services" includes nursing home care, home care, community-based services, and custodial care.

(d) REPORTS.—The Secretary of Health and Human Services shall submit interim reports by December 1, 1990, and by December 1, 1992, and a final report by June 1, 1994, concerning the demonstration projects conducted under this section.

SEC. 208. STUDY OF ADULT DAY CARE SERVICES.

(a) SURVEY OF CURRENT ADULT DAY CARE SERVICES.—The Secretary of Health and Human Services shall conduct a survey of adult day care services in the United States to collect information concerning—

(1) the scope of such services and the extent of their availability;

(2) the characteristics of entities providing such services;

(3) licensure, certification, and other quality standards that are applied to those providing such services;

(4) the cost and financing of such services; and

(5) the characteristics of the people who use such services.

(b) REPORT.—The Secretary shall report to Congress, by not later than 1 year after the date of the enactment of this Act, on the information collected in the survey. Based on such information, the Secretary shall include in the report recommendations concerning appropriate standards for coverage of adult day care services under medicare, including defining chronically dependent individuals, defining services included in adult day care services, establishing qualifications of providers of adult day care services, and establishing a reimbursement mechanism.

(c) ADULT DAY CARE SERVICES DEFINED.—In this section, the term "adult day care services" means medical or social services provided in an organized nonresidential setting to chronically impaired individuals who are not inpatients in a medical institution.

SUBTITLE B—MEDICARE PART B MONTHLY PREMIUM FINANCING

SEC. 211. ADJUSTMENT IN MEDICARE PART B PREMIUM.

(a) IN GENERAL.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g)(1)(A) Except as provided in this paragraph, paragraphs (4) and (5), and subsections (b) and (f), the monthly premium for each individual enrolled under this part otherwise determined, without regard to this subsection, shall be increased by the sum of the catastrophic coverage monthly premium and the prescription drug monthly premium for months in the year determined under the following table (for months occurring in 1989 through 1993) or determined in accordance with paragraphs (2) and (3) (for months after December 1993):

"In the case of:	The catastrophic coverage monthly premium is:	The prescription drug monthly premium is:
1989	$4.00	0
1990	$4.90	0
1991	$5.46	$1.94
1992	$6.75	$2.45
1993	$7.18	$3.02

"(B)(i) Except as provided in subparagraph (C), if the amount of the supplemental premium rate otherwise determined under section 59B of the Internal Revenue Code of 1986 for taxable years beginning in a calendar year is increased as a result of subsection (e)(2)(A)(i) of such section or is reduced as a result of subsection (e)(2)(A)(ii) of such section, the monthly premium increase otherwise determined under this paragraph shall be reduced or increased, respectively, by an amount equal to—

"(I) $1/12$th of the excess or shortfall, respectively, determined under clause (ii) for the year, as adjusted under clause (iv), divided by

"(II) the average number of individuals covered under this part during the preceding year.

"(ii) The excess or shortfall determined under this clause for a year is the excess or shortfall, determined by the Secretary of the Treasury, of—

"(I) the total amount of the supplemental premiums imposed under section 59B of the Internal Revenue Code of 1986 in the 2nd preceding year, over

"(II) the total amount of such premiums which would have been imposed in such year if the supplemental premium rate under such section had been increased by the shortfall rate, or decreased by the excess rate, described in clause (iii).

"(iii) The excess rate or shortfall rate under this clause for a year is the excess or shortfall of—

"(I) the supplemental premium rate established under section 59B of the Internal Revenue Code of 1986 for taxable years beginning in the year, and

"(II) the amount of such supplemental rate if determined without regard to subsection (e)(2)(A) of such section.

"(iv) The amount determined under clause (i)(I) for a year shall be increased by the percentage by which the per capita catastrophic coverage premium liability (as determined in section 59B(e)(3)(D)(ii) of the Internal Revenue Code of 1986) for the second preceding year exceeds such liability for the fourth preceding year (determined as if the catastrophic coverage premium rate for the second preceding calendar year were the same as the rate in effect for the fourth preceding calendar year).

"(C) In no event shall the monthly premium increase in effect under this paragraph for months in a year after 1993 be less than the monthly premium increase in effect under this paragraph for months in the preceding year.

"(D) If subparagraph (B) or subparagraph (C), or both, affects the increase in the monthly premium determined under this paragraph for a year, the increase in the monthly premium determined after the application of such subparagraph or subparagraphs shall be allocated between the catastrophic coverage monthly premium and the prescription drug monthly premium on the basis of the respective amounts of such premiums without regard to the application of either such subparagraph.

"(2)(A) In the case of months in a year after 1993, the catastrophic coverage monthly premium is the catastrophic coverage monthly premium (in effect under paragraph (1) or this paragraph for months in the preceding year, determined without regard to paragraph (1)(B) or (1)(C)) adjusted by the percentage determined under subparagraph (B) for the year.

"(B) The percentage determined under this subparagraph for a year shall be the sum of—

"(i) the outlay-premium percentage, and

"(ii) the reserve account percentage.

For purposes of the preceding sentence, negative percentages shall be taken into account as negatives.

"(C)(i) Except as provided in clause (ii), the outlay-premium percentage for any year is the percentage by which—

"(I) the per capita catastrophic outlays in the 2nd preceding year exceeds

"(II) such outlays in the 3rd preceding calendar year.

If there is no excess, this clause shall be applied by substituting 'is less than' for 'exceeds' and the percentage determined with such substitution shall be taken into account as a negative percentage.

"(ii) If—

"(I) the percentage increase in the CPI for the 12-month period ending with May of the preceding calendar year, exceeds (or is less than)

"(II) such increase for the 12-month period ending with May of the 2nd preceding calendar year,

by at least 1 percentage point, the percentage determined under clause (i) for any year shall be adjusted up (or down, respectively) by ½ of the amount by which such excess (or shortage, respectively) exceeds 1 percent.

"(D)(i) The reserve account percentage for any calendar year is the percentage which the premium change determined under clause (ii) is of the catastrophic coverage monthly premium in effect under paragraph (1) or this paragraph for the preceding year (determined without regard to paragraph (1)(B) or (1)(C)). If there is an excess determined under clause (iii), the percentage determined under the preceding sentence shall be taken into account as a negative percentage.

"(ii) The premium change determined under this clause for any year is the adjustment in the catastrophic coverage monthly premium (otherwise in effect for the 2nd preceding year) which the Secretary determines would have resulted in an aggregate increase (or decrease) in the premiums imposed by this subsection for such year equal to 37 percent of the shortfall or excess determined under clause (iii) for the calendar year.

"(iii) The shortfall (or excess) determined under this clause for any year is the amount by which—

"(I) 20 percent of the outlays during the 2nd preceding calendar year from the Medicare Catastrophic Coverage Account created under section 1841B, exceeds (or is less than)

"(II) the balance in such Account as of the close of such 2nd preceding calendar year (determined by taking into account previous premium increases by reason of the reserve account percentage under this paragraph or section 59B(e) of the Internal Revenue Code of 1986 which have not been credited into such Account).

"(3) In the case of months in a year after 1993, the prescription drug monthly premium shall be determined under rules similar to the rules of paragraph (2); except that—

"(A) in determining the prescription drug monthly premium for any month in a year before 1998, the following percentages shall be substituted for 20 percent in paragraph (2)(D)(iii)(I):

"In the case of year:	The percentage is:
1994	75
1995	50
1996	25
1997	25;

"(B) no adjustment by reason of the outlay-premium percentage shall be made for any calendar year before 1998;

"(C) any reference to the Medicare Catastrophic Coverage Account shall be treated as a reference to the Federal Catastrophic Drug Insurance Trust Fund, and

"(D) any reference to the catastrophic coverage monthly premium shall be treated as a reference to the prescription drug monthly premium.

"(4)(A) In the case of an individual who is a resident of Puerto Rico or who is a resident of another U.S. commonwealth or territory during a month, instead of the premium increase provided under paragraph (1), subject to subsection (b), the monthly premium for each individual enrolled under this part otherwise determined, without regard to this subsection, shall be increased by the sum of—

"(i) the catastrophic coverage monthly premium determined under subparagraph (B) for such resident for the year, and—

"(ii) the prescription drug monthly premium determined under subparagraph (C) for the resident for the year.

"(B) The catastrophic coverage monthly premium for months—

"(i) in 1989 is $1.30 for a resident of Puerto Rico and $2.10 for a resident of another U.S. commonwealth or territory;

"(ii) in 1990 is $3.56 for a resident of Puerto Rico and $5.78 for a resident of another U.S. commonwealth or territory; and

"(iii) in a subsequent year, with respect to a resident of Puerto Rico or a resident of another U.S. commonwealth or territory, is the catastrophic coverage monthly premium established under this subparagraph for the preceding year with respect to such a resident increased by the same percentage (estimated by the Secretary in September of that preceding year) by which—

"(I) the per capita catastrophic outlays for the year, will exceed

"(II) the per capita catastrophic outlays for that preceding year.

"(C) The prescription drug monthly premium for months—

"(i) in 1990 is $0.14 for a resident of Puerto Rico and $0.22 for a resident of another U.S. commonwealth or territory;

"(ii) in 1991 is $1.21 for a resident of Puerto Rico and $1.93 for a resident of another U.S. commonwealth or territory; and

"(iii) in a subsequent year, with respect to a resident of Puerto Rico or a resident of another U.S. commonwealth or territory, is the prescription drug monthly premium established under this subparagraph for the preceding year with respect to such a resident increased by the same percentage (estimated by the Secretary in September of that preceding year) by which—

"(I) the per capita prescription drug outlays for the year, will exceed

"(II) the per capita prescription drug outlays for that preceding year.

"(5)(A) In the case of a part B only individual (as defined in paragraph (8)(F)) during a month, instead of the premium increase provided under paragraph (1), subject to subsection (b), the monthly premium otherwise determined, without regard to this subsection, shall be increased by the sum of—

"(i) the catastrophic coverage monthly premium determined under subparagraph (B) for the year, and—

"(ii) the prescription drug monthly premium determined under subparagraph (C) for the year.

"(B) The catastrophic coverage monthly premium for months—

"(i) in 1990 is $8.57, and

"(ii) in a subsequent year is $\frac{1}{12}$th of the average actuarial expenses that the Secretary estimates (during September before the year) will be incurred during the year for benefits and administration costs (other than benefits and costs attributable to part A) for which outlays may be made from the Medicare Catastrophic Coverage Account.

"(C) The prescription drug monthly premium for months—

"(i) in 1990 is $0.53,

"(ii) in 1991 is $4.61, and

"(iii) a subsequent year is $\frac{1}{12}$th of the average actuarial expenses that the Secretary estimates (during September before the year)

will be incurred during the year for benefits and administration costs for which outlays may be made from the Federal Catastrophic Drug Insurance Trust Fund.

"(6)(A) If any premium increase for a month under this subsection is not a multiple of 10 cents, the Secretary shall round the increase to the nearest multiple of 10 cents.

"(B) If the Secretary so rounds the premium increase, the amount of such increase shall be allocated between the catastrophic coverage monthly premium and the prescription drug monthly premium on the basis of the respective amounts of such premiums without regard to the application of subparagraph (A).

"(7)(A) The Secretary and the Secretary of the Treasury shall jointly—

"(i) publish in the Federal Register by not later than July 1 of each year (beginning with 1993) a proposed regulation to establish premium increases under this subsection for months in the following year,

"(ii) report to Congress, by not later than September 1 of such year, on the final premiums to be published under clause (iii), and

"(iii) publish in the Federal Register, during the last 3 days of September of each such year, a final regulation establishing monthly premiums under this subsection for months in the following year.

"(B) The Secretary shall report to Congress, in 1993, respecting the appropriateness of the level of premium increases established under paragraph (4) for residents of Puerto Rico and of other U.S. commonwealths and territories.

"(8) For purposes of this subsection:

"(A) The term 'per capita catastrophic outlays' means, with respect to any year, the amount (as determined by the Secretary) equal to—

"(i) the outlays during such year from the Medicare Catastrophic Coverage Account, divided by

"(ii) the average number of individuals entitled to receive benefits under part A during such year.

"(B) The term 'per capita prescription drug outlays' means, with respect to any year, the amount (as determined by the Secretary) equal to—

"(i) the outlays during such year from the Federal Catastrophic Drug Insurance Trust Fund, divided by

"(ii) the average number of individuals entitled to receive benefits under part A during such year.

"(C) The percentage increase in the CPI for any 12-month period shall be the percentage by which the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the last month of such period exceeds such Index for the last month of the preceding 12-month period.

"(D) The term 'Medicare Catastrophic Coverage Account' refers to such Account as created under section 1841B.

"(E) The term 'U.S. commonwealth or territory' means Puerto Rico, the United States Virgin Islands, Guam, American Samoa, or the Northern Mariana Islands.

"(F) The term 'part B only individual' means, with respect to a month, an individual who—

"(i) is not a resident of a U.S. commonwealth or territory (as defined in subparagraph (D)) during the month,

"(ii) is entitled to benefits under this part, and

"(iii) is not entitled to (or, on application without payment of an additional premium, would not be entitled to) benefits under part A or is entitled to benefits under such part only because of payment of a premium under section 1818.".

(b) EXTENSION OF HOLD-HARMLESS PROVISION.—Subsection (f) of section 1839 is amended to read as follows:

"(f) For any calendar year after 1988, if an individual is entitled to monthly benefits under section 202 or 223 or to a monthly annuity under section 3(a), 4(a), or 4(f) of the Railroad Retirement Act of 1974 for November and December of the preceding year, and if the monthly premium of the individual under this section for December and for January is deducted from those benefits under section 1840(a)(1) or section 1840(b)(1), the monthly premium otherwise determined under this section for an individual for that year shall not be increased, pursuant to this subsection, to the extent that such increase would reduce the amount of benefits payable to that individual for that January below the amount of benefits payable to that individual for that December (after the deduction of the premium under this section). For purposes of this subsection, retroactive adjustments or payments and deductions on account of work shall not be taken into account in determining the monthly benefits to which an individual is entitled under section 202 or 223 or under the Railroad Retirement Act of 1974.".

(c) CONFORMING AMENDMENTS.—

(1) Section 1839 (42 U.S.C. 1395r) is amended—

(A) in the second sentence of subsections (a)(1) and (a)(4), by inserting "(other than costs relating to the amendments made by the Medicare Catastrophic Coverage Act of 1988)" before the period;

(B) by inserting before the period at the end of the last sentence of subsections (a)(1) and (a)(4) the following: ", but shall not take into account any amounts in the Trust Fund that may be attributable to receipts or outlays relating to the Medicare Catastrophic Coverage Account";

(C) in subsections (a)(2), by striking "and (e)" and inserting ", (e), and (g)";

(D) in subsection (a)(3), by striking "subsection (e)" and inserting "subsections (e) and (g)";

(E) in subsection (b), by striking "determined under subsection (a) or (e)" and inserting "otherwise determined under this section (without regard to subsections (f) and (g)(6))"; and

(F) in subsection (e)(1), by inserting "except as provided in subsection (g)," after "subsection (a)".

(2) Section 1844(a) (42 U.S.C. 1395w(a)(1)) is amended by adding at the end the following:

"In computing the amount of aggregate premiums and premiums per enrollee under paragraph (1), there shall not be taken into account premiums attributable to section 1839(g) or section 59B of the Internal Revenue Code of 1986.".

(3) Section 1876(a)(5) (42 U.S.C. 1395ff(a)(5)) is amended—

(A) by striking "and the Federal Supplementary Medical Insurance Trust Fund" and inserting ", the Federal Supplementary Medical Insurance Trust Fund, and the Federal Catastrophic Drug Insurance Trust Fund", and

(B) by amending the second sentence to read as follows:

"The portion of that payment to the organization for a month to be paid by each trust fund shall be determined as follows:

"(A) In regard to expenditures by eligible organizations having risk-sharing contracts, the allocation shall be determined each year by the Secretary based on the relative weight that benefits from each fund contribute to the adjusted average per capita cost.

"(B) In regard to expenditures by eligible organizations operating under a reasonable cost reimbursement contract, the initial allocation shall be based on the plan's most recent budget, such allocation to be adjusted, as needed, after cost settlement to reflect the distribution of actual expenditures.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply (except as otherwise specified in such amendments) to monthly premiums for months beginning with January 1989.

SEC. 212. ESTABLISHMENT OF FEDERAL CATASTROPHIC DRUG INSURANCE TRUST FUND; FUND TRANSFERS.

(a) IN GENERAL.—Part B of title XVIII is amended by inserting after section 1841 the following new section:

"FEDERAL CATASTROPHIC DRUG INSURANCE TRUST FUND

"SEC. 1841A. (a)(1) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Catastrophic Drug Insurance Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and amounts transferred to it in accordance with section 1841(j) or under paragraph (2).

"(2) There are hereby appropriated to the Trust Fund amounts equivalent to 100 percent of the supplemental premiums imposed by section 59B of the Internal Revenue Code of 1986 which are attributable to the prescription drug rate. The amounts appropriated by the preceding sentence shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the premiums, specified in the preceding sentence, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the premiums specified in such sentence. At the close of each year, the transfers under this subsection shall reflect all premiums paid or deposited (as specified in this subsection) into the Treasury in the year.

"(b) The provisions of subsections (b) through (i) of section 1841 shall apply to the Trust Fund in the same manner as they apply to the Federal Supplementary Medical Insurance Trust Fund.

"(c) Notwithstanding any other provision of this title, all payments under this part on or after January 1, 1990, for benefits and administrative costs relating to covered outpatient drugs shall be made from the Trust Fund.

"(d)(1) The Secretary of the Treasury, in consultation with the Board of Trustees of the Trust Fund, shall publish in the Federal Register—

"(A) not later than July 1 of each year (beginning with 1992), information on—

"(i) the outlays made from the Trust Fund in the preceding year, and

"(ii) the balance in the Trust Fund as of the close of the preceding year; and

"(B) during the last 3 days of September of each such year, the prescription drug monthly premiums to be established under section 1839(g) for months in the succeeding year.

"(2) The Secretary shall report to Congress, not later than July 1 of each year (beginning with 1992), respecting the distribution of outlays from the Trust Fund in the previous year among major spending categories. The Comptroller General shall report, not later than September 1 of each year, to Congress concerning the completeness and accuracy of the Secretary's report under the previous sentence and of the premiums established under section 1839(g) and under section 59B of the Internal Revenue Code of 1986.

"(e) In this part, with respect to the Trust Fund and the Medicare Catastrophic Coverage Account, the terms 'outlays' and 'receipts' mean, with respect to a quarter or other period, gross outlays and receipts, as such terms are employed in the 'Monthly Treasury Statement of Receipts and Outlays of the United States Government (MTS)', as published by the Department of the Treasury, for months in such quarter or other period.".

(b) TRANSFERS OF CERTAIN PREMIUMS.—

(1) TRANSFER OF FLAT PRESCRIPTION DRUG PREMIUMS TO FEDERAL CATASTROPHIC DRUG INSURANCE TRUST FUND.—Section 1840 (42 U.S.C. 1395s) is amended by adding at the end the following new subsection:

"(i) Notwithstanding the previous provisions of this subsection, premiums collected under this part which are attributable to a prescription drug monthly premium established under section 1839(g) shall, instead of being transferred to (or being deposited to the credit of) the Federal Supplemental Medical Insurance Trust Fund, be transferred to (or deposited to the credit of) the Federal Catastrophic Drug Insurance Trust Fund.".

(2) TRANSFER OF SUPPLEMENTAL CATASTROPHIC COVERAGE PREMIUMS INTO THE SMI TRUST FUND.—Section 1841(a) (42 U.S.C. 1395t(a)) is amended by adding the following: "There are hereby appropriated to the Trust Fund amounts equivalent to 100 percent of the supplemental premiums imposed by section 59B of the Internal Revenue Code of 1986 which are attributable to the catastrophic coverage rate and which are not otherwise appropriated under section 1817A(a)(2) to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund. The amounts appropriated by the preceding sentence shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the premiums, specified in the preceding sentence, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the premiums specified in such sentence. At the close of each year, the transfers under this subsection shall reflect all premiums under section 59B of the Internal Revenue Code of 1986 paid or deposited into the Treasury in the year.".

(c) CONFORMING AMENDMENTS.—

(1)(A) Section 201(g)(1)(A) (42 U.S.C. 401(g)(1)(A)) is amended by striking "and the Federal Supplementary Medical Insurance Trust Fund" and inserting ", Federal Supplementary Medical Insurance Trust Fund, and the Federal Catastrophic Drug Insurance Trust Fund".

(B) Section 201(i)(1) (42 U.S.C. 401(i)(1)) is amended by striking "and the Federal Supplementary Medical Insurance Trust Fund" and inserting ", Federal Hospital Insurance Catastrophic Coverage Reserve Fund, Federal Supplementary Medical Insurance Trust Fund, and the Federal Catastrophic Drug Insurance Trust Fund".

(2) Section 1833(a) (42 U.S.C. 1395l(a)) is amended, in the matter before paragraph (1), by inserting "or, as provided in section 1841A(c), from the Federal Catastrophic Drug Insurance Trust Fund" after "Medical Insurance Trust Fund".

(3) Section 1817(b) (42 U.S.C. 1395i(b)) is amended by inserting after the sixth sentence the following: "Such report shall also identify (and treat separately) those outlays from the Trust Fund which are also outlays from the Medicare Catastrophic Coverage Account created under section 1841B and those outlays for which there are amounts transferred into the Federal Hospital Insurance Catastrophic Coverage Reserve Fund.".

(4) Section 1841(b) (42 U.S.C. 1395t(b)) is amended by inserting after the sixth sentence the following: "Such report shall also identify (and treat separately) those receipts and outlays in the Trust Fund which are also receipts and outlays in the Medicare Catastrophic Coverage Account created under section 1841B.".

SEC. 213. CREATION OF MEDICARE CATASTROPHIC COVERAGE ACCOUNT.

(a) IN GENERAL.—Part B of title XVIII is amended by inserting after section 1841A, as inserted by section 212, the following new section:

"MEDICARE CATASTROPHIC COVERAGE ACCOUNT

"SEC. 1841B. (a) For purposes of carrying out certain provisions of this title, and section 59B of the Internal Revenue Code of 1986, there is hereby created on the books of the Treasury of the United States an account to be known as the 'Medicare Catastrophic Coverage Account' (in this section referred to as the 'Account'), to be maintained by the Secretary of the Treasury in consultation with the Boards of Trustees of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. No funds shall actually be transferred into or paid out of the Account, but, for other purposes of this part and for purposes of section 59B of the Internal Revenue Code of 1986, amounts credited to the Account shall be considered receipts of the Account and amounts debited to account shall be considered outlays from the Account.

"(b)(1) The Account shall be—

"(A) credited for receipts of the Federal Supplementary Medical Insurance Trust Fund attributable to the portion of supplemental premiums under section 59B of the Internal Revenue Code of 1986, and the premiums under section 1839(g), attributable to the catastrophic coverage premium rate or catastrophic coverage monthly premium,

"(B) credited for receipts of the Federal Hospital Insurance Catastrophic Coverage Reserve Fund, and

"(C) debited for outlays made under this title that are attributable to the amendments made by the Medicare Catastrophic Coverage Act of 1988 (other than outlays relating to covered outpatient drugs and related administrative costs).

"(2) In addition, the Account shall be—

"(A) credited with interest (at the rate used for purposes of the Federal Supplementary Medical Insurance Trust Fund) on any positive average balance maintained in the Account in a calendar quarter, and

"(A) debited with interest (at the rate used for purposes of the Federal Supplementary Medical Insurance Trust Fund) on any negative average balance maintained in the Account in a calendar quarter.

"(3) Credits and debits under this subsection shall be made as of the last date of each month based upon receipts and outlays occurring during the month, as estimated by the Secretary and the Secretary of the Treasury.

"(4) The Account shall also identify (and treat separately) those credits and debits in the Account which are also receipts and outlays in the Federal Supplementary Medical Insurance Trust Fund, those receipts which are also receipts of the Federal Hospital Insurance Catastrophic Coverage Reserve Fund, and those outlays that are also outlays from the Federal Hospital Insurance Trust Fund.

"(c)(1) The Secretary of the Treasury shall publish in the Federal Register—

"(A) not later than July 1 of each year (beginning with 1990), information on—

"(i) the outlays made from the Account in the preceding year, and

"(ii) the balance in the Account as of the close of the preceding year; and

"(B) during the last 3 days of September of each such year, the catastrophic coverage monthly premiums to be established under section 1839(g) for months in the succeeding year.

"(2) The Secretary shall report to Congress, not later than July 1 of each year (beginning with 1990), respecting the distribution of outlays from the Account in the previous year among major spending categories. The Comptroller General shall report, not later than September 1 of each year, to Congress concerning the completeness and accuracy of the Secretary's report under the previous sentence and of the premiums established under section 1839(g) and under section 59B of the Internal Revenue Code of 1986.

"(d) The Secretary of the Treasury shall report to Congress in April of each year on the status of the Account created under this section.".

SUBTITLE C—MISCELLANEOUS PROVISIONS

SEC. 221. VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES.

(a) FREE-LOOK PERIOD.—Section 1882 (42 U.S.C. 1395ss) is amended—

(1) in subsection (b)(1)(B), by striking "and (3)" and inserting "through (4)", and

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (2),

(B) by striking the period at the end of paragraph (3) and inserting "; and", and

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

"(4) may, during a period of not less than 30 days after the policy is issued, be returned for a full refund of any premiums paid (without regard to the manner in which the purchase of the policy was solicited).".

(b) REPORTING OF INFORMATION RELATING TO LOSS RATIOS.—Section 1882(b)(1), as amended by subsection (a), is further amended—

(1) in subparagraph (C), by striking "(A) and (B)" and inserting "(A), (B), and (C)",

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and

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

"(C) provides that—

"(i) information with respect to the actual ratio of benefits provided to premiums collected under such policies will be reported to the State on forms conforming to those de-

veloped by the National Association of Insurance Commissioners for such purpose, or

"(ii) such ratios will be monitored under the program in an alternative manner approved by the Secretary;".

(c) CONSUMER INFORMATION.—Section 1882(e) is amended—

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

(2) by adding at the end thereof the following:

"(2) The Secretary shall—

"(A) inform all individuals entitled to benefits under this title (and, to the extent feasible, individuals about to become so entitled) of—

"(i) the actions and practices that are subject to sanctions under subsection (d), and

"(ii) the manner in which they may report any such action or practice to an appropriate official of the Department of Health and Human Services (or to an appropriate State official), and

"(B) publish the toll-free telephone number for individuals to report suspected violations of the provisions of such subsection.

"(3) The Secretary shall provide individuals entitled to benefits under this title (and, to the extent feasible, individuals about to become so entitled) with a listing of the addresses and telephone numbers of State and Federal agencies and offices that provide information and assistance to individuals with respect to the selection of medicare supplemental policies.".

(d) REVISION OF MODEL STANDARDS; TRANSITION.—Section 1882 is further amended—

(1) in the third sentence of subsection (a), by striking "Such certification" and inserting "Subject to subsection (k)(3), such certification";

(2) in subsection (b), by striking "(for so long as" and inserting "(subject to subsection (k)(3), for so long as"; and

(3) by adding at the end thereof the following new subsections:

"(k)(1)(A) If, within the 90-day period beginning on the date of the enactment of this subsection, the National Association of Insurance Commissioners (in this subsection referred to as the 'Association') amends the NAIC Model Regulation adopted on June 6, 1979 (as it relates to medicare supplemental policies), with respect to matters such as minimum benefit standards, loss ratios, disclosure requirements, and replacement requirements and provisions otherwise necessary to reflect the changes in law made by the Medicare Catastrophic Coverage Act of 1988, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the Model Regulation as amended by the Association in accordance with this paragraph (in this subsection and subsection (l) referred to as the 'amended NAIC Model Regulation').

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the amended NAIC Model Regulation or 1 year after the date the Association first adopts such amended Regulation.

"(2)(A) If the Association does not amend the NAIC Model Regulation within the 90-day period specified in paragraph (1)(A), the Secretary shall promulgate, not later than 60 days after the end of such period, Federal model standards (in this subsection and subsection (l) referred to as 'Federal model standards') for medicare supplemental policies to reflect the changes in law made by the Medicare Catastrophic Coverage Act of 1988, and subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to Federal model standards.

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the Federal model standards or 1 year after the date the Secretary first promulgates such standards.

"(3) Notwithstanding any other provision of this section (except as provided in subsection (l))—

"(A) no Medicare supplemental policy may be certified by the Secretary pursuant to subsection (a),

"(B) no certification made pursuant to subsection (a) shall remain in effect, and

"(C) no State regulatory program shall be found to meet (or to continue to meet) the requirements of subsection (b)(1)(A),

unless such policy meets (or such program provides for the application of standards equal to or more stringent than) the standards set forth in the amended NAIC Model Regulation or the Federal model standards (as the case may be) by the date specified in paragraph (1)(B) or (2)(B) (as the case may be).

"(l)(1) Until the date specified in paragraph (3), in the case of a qualifying Medicare supplemental policy described in paragraph (2) issued—

"(A) before January 1, 1989, the policy is deemed to remain in compliance with this section if the insurer issuing the policy complies with the NAIC Model Transition Regulation (including giving notices to subscribers and filing for premium adjustments with the State as described in section 5.B. of such Regulation) by January 1, 1989; or

"(B) on or after January 1, 1989, the policy is deemed to be in compliance with this section if the insurer issuing the policy complies with the NAIC Model Transition Regulation before the date of the sale of the policy.

"(2) In paragraph (1), the term 'qualifying medicare supplemental policy' means a medicare supplemental policy—

"(A) issued in a State which—

"(i) has not adopted standards equal to or more stringent than the NAIC Model Transition Regulation by January 1, 1989, and

"(ii) has not adopted standards equal to or more stringent than the amended NAIC Model Regulation (or Federal model standards) by January 1, 1989; and

"(B) which has been issued in compliance with this section (as in effect on June 1, 1988).

"(3)(A) The date specified in this paragraph is the earlier of—

"(i) the first date a State adopts, after January 1, 1989, standards equal to or more stringent than the NAIC Model Transition Regulation or equal to or more stringent than the amended NAIC Model Regulation (or Federal model standards), as the case may be, or

"(ii) the later of (I) the date specified in subsection (k)(1)(B) or (k)(2)(B) (as the case may be), or (II) the date specified in subparagraph (B).

"(B) In the case of a State which the Secretary identifies as—

"(i) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet standards described in subparagraph (A)(i), but

"(ii) having a legislature which is not scheduled to meet in 1989 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1989, and in which legislation described in clause (i) may be considered. 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.

"(4) In the case of a medicare supplemental policy in effect on January 1, 1989, and offered in a State which, as of such date—

"(A) has adopted standards equal to or more stringent than the amended NAIC Model Regulation (or Federal model standards), but

"(B) does not have in effect standards equal to or more stringent than the NAIC Model Transition Regulation (or otherwise requiring notice substantially the same as the notice required in section 5.B. of such Regulation),

the policy shall not be deemed to meet the standards in subsection (c) unless each individual who is entitled to benefits under this title and is a policyholder under such policy on January 1, 1989, is sent such a notice in any appropriate form by not later than January 31, 1989, that explains—

"(A) the improved benefits under this title contained in the Medicare Catastrophic Coverage Act of 1988, and

"(B) how these improvements affect the benefits contained in the policies and the premium for the policy.

"(5) In this subsection, the term 'NAIC Model Transition Regulation' refers to the standards contained in the 'Model Regulation to Implement Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Medicare Program Revisions' (as adopted by the National Association of Insurance Commissioners in September 1987).

"(6) The Secretary shall report to the Congress in March 1989 and in July 1990 on actions States have taken in adopting standards equal to or more stringent than the NAIC Model Transition Regulation or the amended NAIC Model Regulation (or Federal model standards).".

(e) REQUIRED SUBMISSION OF ADVERTISING.—Section 1882(b) is further amended by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1), a medicare supplemental policy offered in a State shall not be deemed to meet the standards and requirements set forth in subsection (c), with respect to an advertisement (whether through written, radio, or television medium) used (or, at a State's option, to be used) for the policy in the State, unless the entity issuing the policy provides a copy of each advertisement to the Commissioner of Insurance (or comparable officer identified by the Secretary) of that State for review or approval to the extent it may be required under State law.".

(f) APPOINTMENT OF SUPPLEMENTAL HEALTH INSURANCE PANEL MEMBERS.—Section 1882(b)(2)(A) is amended by striking "appointed by the President" and inserting "appointed by the Secretary".

(g) EFFECTIVE DATES.—

(1) Except as provided in paragraphs (2) and (3), the amendments made by this sec-

tion shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (a) and (b) shall become effective on the date specified in subsection (k)(1)(B) or (k)(2)(B) of section 1882 of the Social Security Act (as added by subsection (c) of this section).

(3) The amendment made by subsection (f) shall apply to medicare supplemental policies as of January 1, 1989, with respect to advertising used on or after such date.

(4) The Secretary of Health and Human Services shall provide for the reappointment of members to the Supplemental Health Insurance Panel (under section 1882(b)(2) of the Social Security Act) by not later than 90 days after the date of the enactment of this Act.

SEC. 222. ADJUSTMENT OF CONTRACTS WITH PREPAID HEALTH PLANS.

The Secretary of Health and Human Services shall—

(1) modify contracts under sections 1833(a)(1)(A) and 1876 of the Social Security Act, for portions of contract years occurring after December 31, 1988, to take into account the amendments made by this Act; and

(2) require such organizations to make appropriate adjustments (including adjustments in premiums and benefits) in the terms of their agreements with medicare beneficiaries to take into account such amendments.

The Secretary shall also provide for appropriate modifications of contracts with health maintenance organizations under section 1876(i)(2)(A) of the Social Security Act (as in effect before February 1, 1985), under section 402(a) of the Social Security Amendments of 1967, or under section 222(a) of the Social Security Amendments of 1972, for portions of contract years occurring after December 31, 1988, so as to apply to such organizations and contracts the requirements imposed by the amendments made by this Act upon an organization with a risk-sharing contract under section 1876 of the Social Security Act.

SEC. 223. MAILING OF NOTICE OF MEDICARE BENEFITS AND INFORMATION DESCRIBING PARTICIPATING PHYSICIAN PROGRAM.

(a) DISTRIBUTION OF NOTICES.—Title XVIII is amended by inserting after section 1803 the following new section:

"NOTICE OF MEDICARE BENEFITS

"SEC. 1804. The Secretary shall prepare (in consultation with groups representing the elderly and with health insurers) and provide for distribution of a notice containing—

"(1) a clear, simple explanation of the benefits available under this title and the major categories of health care for which benefits are not available under this title,

"(2) the limitations on payment (including deductibles and coinsurance amounts) that are imposed under this title, and

"(3) a description of the limited benefits for long-term care services available under this title and generally available under State plans approved under title XIX.

Such notice shall be mailed annually to individuals entitled to benefits under part A or part B of this title and when an individual applies for benefits under part A or enrolls under part B.".

(b) DISTRIBUTION OF INFORMATION DESCRIBING PARTICIPATING PHYSICIAN PROGRAM.—Section 1842(h)(5) (42 U.S.C. 1395u(h)(5)) is amended—

(1) by inserting "through an annual mailing" after "under this part",

(2) by striking the last sentence,

(3) by inserting "(A)" after "(5)", and

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

"(B) The annual notice provided under subparagraph (A) shall include—

"(i) a description of the participation program,

"(ii) an explanation of the advantages to beneficiaries of obtaining covered services through a participating physician or supplier,

"(iii) an explanation of the assistance offered by carriers in obtaining the names of participating physicians and suppliers, and

"(iv) the toll-free telephone number under paragraph (2)(A) for inquiries concerning the program and for requests for free copies of appropriate directories.".

(c) REVISION OF EXPLANATION OF MEDICARE BENEFITS.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(1) in subparagraph (A)—

(A) by inserting "prominent" before "reminder", and

(B) by striking ", and" and inserting "and a clear statement of any amounts charged for the particular items or services on the claim involved above the amount recognized under this part),";

(2) in subparagraph (B), by striking the period at the end and inserting ", and"; and

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

"(C) shall include (i) an offer of assistance to such an individual in obtaining the names of participating physicians of appropriate specialty and (ii) an offer to provide a free copy of the appropriate participating physician directory.".

(d) EFFECTIVE DATES.—

(1) The Secretary of Health and Human Services shall first distribute the notice required by the amendment made by subsection (a) not later than January 31, 1989.

(2) The amendments made by subsection (b) shall apply to annual notices beginning with 1989.

(3) The amendments made by subsection (c) shall first apply to explanations of benefits provided for items and services furnished on or after January 1, 1989.

SEC. 224. CHANGES IN CIVIL MONEY PENALTIES FOR CERTAIN PRACTICES OF HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.

Section 1876(i)(6)(B)(i) (42 U.S.C. 1395mm(i)(6)(B)(i)) is amended by adding at the end the following: "plus, with respect to a determination under subparagraph (A)(ii), double the excess amount charged in violation of such subparagraph (and the excess amount charged shall be deducted from the penalty and return to the individual concerned), and plus, with respect to a determination under subparagraph (A)(iv), $15,000 for each individual not enrolled as a result of the practice involved,".

TITLE III—PROVISIONS RELATING TO THE MEDICAID PROGRAM

SEC. 301. REQUIRING MEDICAID BUY-IN OF PREMIUMS AND COST-SHARING FOR INDIGENT MEDICARE BENEFICIARIES.

(a) REQUIREMENT.—

(1) Section 1902(a)(10)(E) (42 U.S.C. 1396a(a)(10)(E)) is amended by striking "at the option of a State, but".

(2) Section 1905(p)(1)(B) (42 U.S.C. 1396d(p)(1)(B)) is amended by striking "and the election of the State".

(b) PHASING-IN REQUIRED INCOME STANDARD TO 100 PERCENT OF POVERTY LEVEL.—Section 1905(p)(2)(A) (42 U.S.C. 1396d(p)(2)(A)) is amended—

(1) by striking "may not exceed a percentage (not more than 100 percent)" and inserting "shall be at least the percent provided under clause (ii) (but not more than 100 percent)",

(2) by inserting "(i)" after "(2)(A)", and

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

"(ii) Except as provided in clause (iii), the percent provided under this clause, with respect to eligibility for medical assistance on or after—

"(I) January 1, 1989, is 85 percent,

"(II) January 1, 1990, is 90 percent,

"(III) January 1, 1991, is 95 percent, and

"(IV) January 1, 1992, is 100 percent.

"(iii) In the case of a State which has elected treatment under section 1902(f) and which, as of January 1, 1987, used an income standard for individuals age 65 or older which was more restrictive than the income standard established under the supplemental security income program under title XVI, the percent provided under clause (ii), with respect to eligibility for medical assistance on or after—

"(I) January 1, 1989, is 80 percent,

"(II) January 1, 1990, is 85 percent,

"(III) January 1, 1991, is 90 percent,

"(IV) January 1, 1992, is 95 percent, and

"(V) January 1, 1993, is 100 percent.".

(c) RESOURCE STANDARD.—Section 1905(p) (42 U.S.C. 1396d(p)) is amended—

(1) in paragraph (1)(C), by striking "(2)(A)" and inserting "(2)";

(2) in paragraph (1)(D), by striking "(except as provided in paragraph (2)(B))" and inserting "twice"; and

(3) in paragraph (2)—

(A) in subparagraph (A), by striking "(2)(A)" and inserting "(2)", and

(B) by striking subparagraph (B).

(d) MEDICARE COVERAGE.—Section 1905(p) (42 U.S.C. 1396d(p)) is amended—

(1) in paragraph (3)(A), by striking "under part B and (if applicable) under section 1818" and inserting "under title XVIII (including under part B and, if applicable, under section 1818)";

(2) by amending subparagraphs (B) and (C) of paragraph (3) to read as follows:

"(B) Coinsurance under title XVIII (including coinsurance described in section 1813).

"(C) Subject to paragraph (4), deductibles established under title XVIII (including those described in section 1813, 1833(b), and section 1834(c)(1)).."; and

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

"(4) In a State which provides medical assistance for prescribed drugs under section 1905(a)(12), instead of providing to qualified medicare beneficiaries, under paragraph (3)(C), medicare cost-sharing with respect to the annual deductible for covered outpatient drugs under section 1834(c)(1), the State may provide to such beneficiaries, before charges for covered outpatient drugs for a year reach such deductible amount, benefits for prescribed drugs in the same amount, duration, and scope as the benefits made available under the State plan for individuals described in subsection (a)(10)(A)(i).".

(e) CONFORMING AMENDMENTS.—

(1) Section 1843 (42 U.S.C. 1395v) is amended by inserting "or after 1988" in subsections (a), (g)(1), and (h)(1) after "during 1981".

(2) Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10)(A)(ii)(X), by striking "subject to subsection (m)(3),",

(B) in subsection (a)(10)(E), by striking "subject to subsection (m)(3),";

(C) in subsection (a)(17), by striking "(m)(4), and (m)(5)" and inserting "(m)(3), and (m)(4)", and

(D) in subsection (m), by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(3) The amendment made by paragraph (1) shall take effect on January 1, 1989, and the amendments made by paragraph (2) shall take effect on July 1, 1989.

(f) TECHNICAL AMENDMENT.—Effective as though included in the enactment of the Omnibus Budget Reconciliation Act of 1986, paragraph (2) of section 9403(g) of such Act is amended to read as follows:

"(2) PAYMENT OF MEDICARE COST-SHARING.—Section 1903(a)(1) (42 U.S.C. 1396b(a)(1)) is amended by inserting 'including expenditures for medicare cost-sharing and' before 'including expenditures.'.".

(g) TREATMENT OF CERTAIN STATES.—

(1) 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(a) of the Social Security Act, the Secretary of Health and Human Services shall require the State to meet the requirement of section 1902(a)(10)(E) of the Social Security Act in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under title XIX of such Act.

(2) COMMONWEALTHS AND TERRITORIES.—Section 1905(p) (42 U.S.C. 1396d(p)), as amended by subsection (d)(3), is further amended by adding at the end the following new paragraph:

"(5) Notwithstanding any other provision of this title, in the case of a State (other than the 50 States and the District of Columbia)—

"(A) the requirement stated in section 1902(a)(10)(E) shall be optional, and

"(B) for purposes of paragraph (2)(A), the State may substitute for the percent provided under clause (ii) of such paragraph any percent.".

(h) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as provided in subsections (e) and (f) and under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1989, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date, with respect to medical assistance for—

(A) monthly premiums under title XVIII of such Act for months beginning with January 1989, and

(B) items and services furnished on and after January 1, 1989.

(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 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 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. 302. COVERAGE AND PAYMENT FOR PREGNANT WOMEN AND INFANTS WITH INCOMES BELOW POVERTY LINE.

(a) PREGNANT WOMEN AND INFANTS UNDER AGE 1.—

(1) REQUIRING COVERAGE.—Section 1902(a)(10) (42 U.S.C. 1396a) is amended—

(A) in subparagraph (A)(i), by striking "or" at the end of subclause (II), by striking the semicolon in subclause (III) and inserting ", or", and by adding at the end the following new subclause:

"(IV) who are described in subparagraph (A) or (B) of subsection (l)(1) and whose family income does not exceed the minimum income level the State is required to establish under subsection (l)(2)(A) for such a family;";

(B) by amending subclause (IX) of subparagraph (A)(ii) to read as follows:

"(IX) who are described in subsection (l)(1) and are not described in clause (i)(IV);"; and

(C) in clause (VII) in the matter after and below subparagraph (E), by inserting "(A)(i)(IV) or" before "(A)(ii)(IX)".

(2) DESCRIPTION OF INDIVIDUALS REQUIRED TO BE COVERED.—Section 1902(l) (42 U.S.C. 1396a(l)) is amended—

(A) in paragraph (1)(C)—

(i) by inserting "at the option of the State," after "(C)", and

(ii) by striking "and" after "1983,"; and

(B) in paragraph (2)(A)—

(i) by striking "not more than 185 percent)" and inserting "(not less than the percentage provided under clause (ii) and not more than 185 percent)";

(ii) by inserting "(i)" after "(2)(A)"; and

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

"(ii) Subject to clause (iii), the percentage provided under this clause, with respect to eligibility for medical assistance on or after—

"(I) July 1, 1989, is 75 percent, and

"(II) July 1, 1990, is 100 percent.

"(iii) In the case of a State which, as of the date of the enactment of this clause, has elected to provide, and provides, medical assistance to individuals described in this subsection or has enacted legislation authorizing, or appropriating funds, to provide such assistance to such individuals before July 1, 1989, the percentage provided under clause (ii) shall not be less than—

"(I) the percentage specified by the State in an amendment to its State plan (whether approved or not) as of the date of the enactment of this clause, or

"(II) if no such percentage is specified as of the date of the enactment of this clause, the percentage established under the State's authorizing legislation or provided for under the State's appropriations;

but in no case shall this clause require the percentage provided under clause (ii) to exceed 100 percent.".

(b) COVERAGE OF MEDICALLY NECESSARY SERVICES FOR INFANTS AND ASSURING ADEQUATE PAYMENT FOR INPATIENT HOSPITAL SERVICES FOR INFANTS IN DISPROPORTIONATE SHARE HOSPITALS.—

(1) COVERAGE OF MEDICALLY NECESSARY SERVICES FOR INFANTS.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended, in the matter after and below subparagraph (E)—

(A) by striking "and" before "(IX)", and

(B) by inserting before the semicolon at the end the following: ", and (X) if the plan provides for any fixed durational limit on medical assistance for inpatient hospital services (whether or not such a limit varies by medical condition or diagnosis), the plan must establish exceptions to such a limit for medically necessary inpatient hospital services furnished with respect to individuals under one year of age in a hospital defined under the State plan, pursuant to section 1923(a)(1)(A), as a disproportionate share hospital and subparagraph (B) (relating to comparability) shall not be construed as requiring such an exception for other individuals, services, or hospitals".

(2) ASSURING ADEQUATE PAYMENT FOR INPATIENT HOSPITAL SERVICES FOR INFANTS IN DISPROPORTIONATE SHARE HOSPITALS.—Section 1923(a)(2), as redesignated pursuant to the amendment made by section 411(k)(6)(B) of this Act, is amended by adding at the end the following new subparagraph:

"(C) If a State plan under this title provides for payments for inpatient hospital services on a prospective basis (whether per diem, per case, or otherwise), in order for the plan to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1989, the State must submit to the Secretary by not later than April 1, 1989, a State plan amendment that provides, in the case of hospitals defined by the State as disproportionate share hospitals under paragraph (1)(A), for an outlier adjustment in payment amounts for medically necessary inpatient hospital services provided on or after July 1, 1989, involving exceptionally high costs or exceptionally long lengths of stay for individuals under one year of age.".

(c) CERTAIN STATE PLAN REQUIREMENTS.—

(1) IN GENERAL.—Subsection (c) of section 1902 (42 U.S.C. 1396a) is amended to read as follows:

"(c) Notwithstanding subsection (b), the Secretary shall not approve any State plan for medical assistance if—

"(1) the State has in effect, under its plan established under part A of title IV, payment levels that are less than the payment levels in effect under such plan on May 1, 1988; or

"(2) the State requires individuals described in subsection (l)(1) to apply for benefits under such part as a condition of applying for, or receiving, medical assistance under this title.".

(2) ELIMINATING DUPLICATE REQUIREMENT.—Section 1902(l) (42 U.S.C. 1396a(l)) is amended by striking paragraph (4).

(3) MAINTENANCE OF EFFORT TO RECEIVE MEDICAL ASSISTANCE FOR OPTIONAL COVERAGE OF PREGNANT WOMEN AND CHILDREN.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

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

(B) by inserting after paragraph (8) the following new paragraph:

"(9) with respect to any amount of medical assistance for pregnant women and children described in section 1902(a)(10)(A)(ii)(IX), if the State has in effect, under its plan established under part A of title IV, payment levels that are less than the payment levels in effect under such plan on July 1, 1987.".

(d) TREATMENT OF CERTAIN STATES AND TERRITORIES.—Section 1902(l) (42 U.S.C. 1396a(l)) is amended by adding at the end the following new paragraph:

"(4)(A) 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 provide medical assistance for pregnant women and infants under age 1 described in subsection (a)(10)(A)(i)(IV) in the same manner as the State would be required to provide such assistance for such individuals if the State had in effect a plan approved under this title.

"(B) In the case of a State which is not one of the 50 States or the District of Columbia, the State need not meet the requirement of subsection (a)(10)(A)(i)(IV) and, for purposes of paragraph (2)(A), the State may substitute for the percentage provided under clause (ii) of such paragraph any percentage.".

(e) CONFORMING AMENDMENTS.—

(1) Section 1902(e)(6) (42 U.S.C. 1396a(e)(6)) is amended to read as follows:

"(6) At the option of a State, in the case of a pregnant woman described in subsection (a)(10) who, because of a change in income of the family of which she is a member, would not otherwise continue to be described in such subsection, the State plan may nonetheless treat the woman as being an individual described in subsection (a)(10)(A)(i)(IV) and subsection (l)(1)(A) without regard to such change of income through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends.".

(2) Section 1902(e)(7) (42 U.S.C. 1396a(e)(7)) is amended—

(A) by striking "If a State plan provides medical assistance for individuals under subsection (a)(10)(A)(ii)(IX), in" and inserting "In",

(B) by inserting "or paragraph (2) of section 1905(n)" after "subsection (l)(1)" the first place it appears, and

(C) by striking "subsection (a)(10)(A)(ii)(IX) and subsection (l)(1)" and inserting "such respective provision".

(3) Section 1902(l) (42 U.S.C. 1396a(l)) is amended—

(A) in the matter after and below subparagraph (C) of paragraph (1), by inserting "any of subclauses (I) through (III) of" after "who are not described in", and

(B) in paragraph (3), in the matter before subparagraph (A), by inserting "(a)(10)(A)(i)(IV) or" before "(a)(10)(A)(ii)(IX)".

(4) Section 1903(f)(4) (42 U.S.C. 1396b(f)(4)) is amended, in the matter before subparagraph (A), by inserting "1902(a)(10)(A)(i)(IV)," before "1902(a)(10)(A)(ii)(IX)".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section apply (except as provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1989, with respect to eligibility for medical assistance on or after such date, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) PAYMENT ADJUSTMENT.—The amendments made by subsection (b)(2) shall take effect on the date of the enactment of this Act.

(3) DELAY FOR STATE LEGISLATION.—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 section (other than subsection (b)(2)), 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 regular legislative session of 2 years, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 303. PROTECTION OF INCOME AND RESOURCES OF COUPLE FOR MAINTENANCE OF COMMUNITY SPOUSE.

(a) IN GENERAL.—

(1) Title XIX, as amended by the amendment made by section 411(k)(6)(B) of this Act, is amended—

(A) by redesignating section 1924 as section 1925, and

(B) by inserting after section 1923 the following new section:

"TREATMENT OF INCOME AND RESOURCES FOR CERTAIN INSTITUTIONALIZED SPOUSES

"SEC. 1924. (a) SPECIAL TREATMENT FOR INSTITUTIONALIZED SPOUSES.—

"(1) SUPERSEDES OTHER PROVISIONS.—In determining the eligibility for medical assistance of an institutionalized spouse (as defined in subsection (h)(1)), the provisions of this section supersede any other provision of this title (including sections 1902(a)(17) and 1902(f)) which is inconsistent with them.

"(2) NO COMPARABLE TREATMENT REQUIRED.—Any different treatment provided under this section for institutionalized spouses shall not, by reason of paragraph (10) or (17) of section 1902(a), require such treatment for other individuals.

"(3) DOES NOT AFFECT CERTAIN DETERMINATIONS.—Except as this section specifically provides, this section does not apply to—

"(A) the determination of what constitutes income or resources, or

"(B) the methodology and standards for determining and evaluating income and resources.

"(4) 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 this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

"(B) NO APPLICATION IN COMMONWEALTHS AND TERRITORIES.—This section shall only apply to a State that is one of the 50 States or the District of Columbia.

"(b) RULES FOR TREATMENT OF INCOME.—

"(1) SEPARATE TREATMENT OF INCOME.—During any month in which an institutionalized spouse is in the institution, except as provided in paragraph (2), no income of the community spouse shall be deemed available to the institutionalized spouse.

"(2) ATTRIBUTION OF INCOME.—In determining the income of an institutionalized spouse or community spouse, after the institutionalized spouse has been determined to be eligible for medical assistance, except as otherwise provided in this section and regardless of any State laws relating to community property or the division of marital property, the following rules apply:

"(A) NON-TRUST PROPERTY.—Subject to subparagraphs (C) and (D), in the case of income not from a trust, unless the instrument providing the income otherwise specifically provides—

"(i) if payment of income is made solely in the name of the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse;

"(ii) if payment of income is made in the names of the institutionalized spouse and the community spouse, one-half of the income shall be considered available to each of them; and

"(iii) if payment of income is made in the names of the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, one-half of the joint interest shall be considered available to each spouse).

"(B) TRUST PROPERTY.—In the case of a trust—

"(i) except as provided in clause (ii), income shall be attributed in accordance with the provisions of this title (including sections 1902(a)(17) and 1902(k)), and

"(ii) income shall be considered available to each spouse as provided in the trust, or, in the absence of a specific provision in the trust—

"(I) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse;

"(II) if payment of income is made to both the institutionalized spouse and the community spouse, one-half of the income shall be considered available to each of them; and

"(III) if payment of income is made to the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, one-half of the joint interest shall be considered available to each spouse).

"(C) PROPERTY WITH NO INSTRUMENT.—In the case of income not from a trust in which there is no instrument establishing ownership, subject to subparagraph (D), one-half of the income shall be considered to be available to the institutionalized spouse and one-half to the community spouse.

"(D) REBUTTING OWNERSHIP.—The rules of subparagraphs (A) and (C) are superseded to the extent that an institutionalized spouse can establish, by a preponderance of the evidence, that the ownership interests in income are other than as provided under such subparagraphs.

"(c) RULES FOR TREATMENT OF RESOURCES.—

"(1) COMPUTATION OF SPOUSAL SHARE AT TIME OF INSTITUTIONALIZATION.—

"(A) TOTAL JOINT RESOURCES.—There shall be computed (as of the beginning of a continuous period of institutionalization of the institutionalized spouse)—

"(i) the total value of the resources to the extent either the institutionalized spouse or the community spouse has an ownership interest, and

"(ii) a spousal share which is equal to ½ of such total value.

"(B) ASSESSMENT.—At the request of an institutionalized spouse or community spouse, at the beginning of a continuous period of institutionalization of the institutionalized spouse and upon the receipt of relevant documentation of resources, the State shall promptly assess and document the total value described in subparagraph (A)(i) and shall provide a copy of such assessment and documentation to each spouse and shall retain a copy of the assessment for use under this section. If the request is not part of an application for medical assistance under this title, the State may, at its option as a condition of providing the assessment, require payment of a fee not exceeding the

reasonable expenses of providing and documenting the assessment. At the time of providing the copy of the assessment, the State shall include a notice indicating that the spouse has right to a fair hearing under subsection (e)(2)(E) with respect to the determination of the community spouse resource allowance, to provide for an allowance adequate to raise the spouse's income to the minimum monthly maintenance needs allowance.

"(2) ATTRIBUTION OF RESOURCES AT TIME OF INITIAL ELIGIBILITY DETERMINATION.—In determining the resources of an institutionalized spouse at the time of application for benefits under this title, regardless of any State laws relating to community property or the division of marital property—

"(A) except as provided in subparagraph (B), all the resources held by either the institutionalized spouse, community spouse, or both, shall be considered to be available to the institutionalized spouse, and

"(B) resources shall not be considered to be available to an institutionalized spouse, to the extent that the amount of such resources does not exceed the amount computed under subsection (f)(2)(A) (as of the time of application for benefits).

"(3) ASSIGNMENT OF SUPPORT RIGHTS.—The institutionalized spouse shall not be ineligible by reason of resources determined under paragraph (2) to be available for the cost of care where—

"(A) the institutionalized spouse has assigned to the State any rights to support from the community spouse;

"(B) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the State has the right to bring a support proceeding against a community spouse without such assignment; or

"(C) the State determines that denial of eligibility would work an undue hardship.

"(4) SEPARATE TREATMENT OF RESOURCES AFTER ELIGIBILITY FOR BENEFITS ESTABLISHED.—During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is determined to be eligible for benefits under this title, no resources of the community spouse shall be deemed available to the institutionalized spouse.

"(5) RESOURCES DEFINED.—In this section, the term 'resources' does not include—

"(A) resources excluded under subsection (a) or (d) of section 1613, and

"(B) resources that would be excluded under section 1613(a)(2)(A) but for the limitation on total value described in such section.

"(d) PROTECTING INCOME FOR COMMUNITY SPOUSE.—

"(1) ALLOWANCES TO BE OFFSET FROM INCOME OF INSTITUTIONALIZED SPOUSE.—After an institutionalized spouse is determined to be eligible for medical assistance, in determining the amount of the spouse's income that is to be applied monthly to payment for the costs of care in the institution, there shall be deducted from the spouse's monthly income the following amounts in the following order:

"(A) A personal needs allowance (described in section 1902(q)(1)), in an amount not less than the amount specified in section 1902(q)(2).

"(B) A community spouse monthly income allowance (as defined in paragraph (2)), but only to the extent income of the institutionalized spouse is made available to (or for the benefit of) the community spouse.

"(C) A family allowance, for each family member, equal to at least ⅓ of the amount by which the amount described in paragraph (3)(A)(i) exceeds the amount of the monthly income of that family member.

"(D) Amounts for incurred expenses for medical or remedial care for the institutionalized spouse (as provided under section 1902(r)).

In subparagraph (C), the term 'family member' only includes minor or dependent children, dependent parents, or dependent siblings of the institutionalized or community spouse who are residing with the community spouse.

"(2) COMMUNITY SPOUSE MONTHLY INCOME ALLOWANCE DEFINED.—In this section (except as provided in paragraph (5)), the 'community spouse monthly income allowance' for a community spouse is an amount by which—

"(A) except as provided in subsection (e), the minimum monthly maintenance needs allowance (established under and in accordance with paragraph (3)) for the spouse, exceeds

"(B) the amount of monthly income otherwise available to the community spouse (determined without regard to such an allowance).

"(3) ESTABLISHMENT OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—

"(A) IN GENERAL.—Each State shall establish a minimum monthly maintenance needs allowance for each community spouse which, subject to subparagraph (C), is equal to or exceeds—

"(i) the applicable percent (described in subparagraph (B)) of 1/12 of the nonfarm income official poverty line (defined by the Office of Management and Budget and revised annually in accordance with sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981) for a family unit of 2 members; plus

"(ii) an excess shelter allowance (as defined in paragraph (4)).

A revision of the official poverty line referred to in clause (i) shall apply to medical assistance furnished during and after the second calendar quarter that begins after the date of publication of the revision.

"(B) APPLICABLE PERCENT.—For purposes of subparagraph (A)(i), the 'applicable percent' described in this paragraph, effective as of—

"(i) September 30, 1989, is 122 percent,

"(ii) July 1, 1991, is 133 percent, and

"(iii) July 1, 1992, is 150 percent.

"(C) CAP ON MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—The minimum monthly maintenance needs allowance established under subparagraph (A) may not exceed $1,500 (subject to adjustment under subsections (e) and (g)).

"(4) EXCESS SHELTER ALLOWANCE DEFINED.—In paragraph (3)(A)(ii), the term 'excess shelter allowance' means, for a community spouse, the amount by which the sum of—

"(A) the spouse's expenses for rent or mortgage payment (including principal and interest), taxes and insurance and, in the case of a condominium or cooperative, required maintenance charge, for the community spouse's principal residence, and

"(B) the standard utility allowance (used by the State under section 5(e) of the Food Stamp Act of 1977) or, if the State does not use such an allowance, the spouse's actual utility expenses,

exceeds 30 percent of the amount described in paragraph (3)(A)(i), except that, in the case of a condominium or cooperative, for which a maintenance charge is included under subparagraph (A), any allowance under subparagraph (C) shall be reduced to the extent the maintenance charge includes utility expenses.

"(5) COURT ORDERED SUPPORT.—If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse shall be not less than the amount of the monthly income so ordered.

"(e) NOTICE AND FAIR HEARING.—

"(1) NOTICE.—Upon—

"(A) a determination of eligibility for medical assistance of an institutionalized spouse, or

"(B) a request by either the institutionalized spouse, or the community spouse, or a representative acting on behalf of either spouse,

each State shall notify both spouses (in the case described in subparagraph (A)) or the spouse making the request (in the case described in subparagraph (B)) of the amount of the community spouse monthly income allowance (described in subsection (d)(1)(B)), of the amount of any family allowances (described in subsection (d)(1)(C)), of the method for computing the amount of the community spouse resources allowance permitted under subsection (f), and of the spouse's right to a fair hearing under this subsection respecting ownership or availability of income or resources, and the determination of the community spouse monthly income or resource allowance.

"(2) FAIR HEARING.—

"(A) IN GENERAL.—If either the institutionalized spouse or the community spouse is dissatisfied with a determination of—

"(i) the community spouse monthly income allowance;

"(ii) the amount of monthly income otherwise available to the community spouse (as applied under subsection (d)(2)(B));

"(iii) the computation of the spousal share of resources under subsection (c)(1);

"(iv) the attribution of resources under subsection (c)(2); or

"(v) the determination of the community spouse resource allowance (as defined in subsection (f)(2));

such spouse is entitled to a fair hearing described in section 1902(a)(3) with respect to such determination. Any such hearing respecting the determination of the community spouse resource allowance shall be held within 30 days of the date of the request for the hearing.

"(B) REVISION OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—If either such spouse establishes that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance in subsection (d)(2)(A), an amount adequate to provide such additional income as is necessary.

"(C) REVISION OF COMMUNITY SPOUSE RESOURCE ALLOWANCE.—If either such spouse establishes that the community spouse resource allowance (in relation to the amount of income generated by such an allowance) is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance, there shall be substituted, for the community spouse resource allowance under subsection (f)(2), an amount adequate to provide such a minimum monthly maintenance needs allowance.

"(f) PERMITTING TRANSFER OF RESOURCES TO COMMUNITY SPOUSE.—

"(1) IN GENERAL.—An institutionalized spouse may, without regard to section 1917, transfer to the community spouse (or to another for the sole benefit of the community spouse) an amount equal to the community spouse resource allowance (as defined in paragraph (2)), but only to the extent the resources of the institutionalized spouse are transferred to (or for the sole benefit of) the community spouse. The transfer under the preceding sentence shall be made as soon as practicable after the date of the initial determination of eligibility, taking into account such time as may be necessary to obtain a court order under paragraph (3).

"(2) COMMUNITY SPOUSE RESOURCE ALLOWANCE DEFINED.—In paragraph (1), the 'community spouse resource allowance' for a community spouse is an amount (if any) by which—

"(A) the greatest of—

"(i) $12,000 (subject to adjustment under subsection (g)), or, if greater (but not to exceed the amount specified in clause (ii)(II)) an amount specified under the State plan;

"(ii) the lesser of (I) the spousal share computed under subsection (c)(1), or (II) $60,000 (subject to adjustment under subsection (g));

"(iii) the amount established under subsection (e)(2); or

"(iv) the amount transferred under a court order under paragraph (3),

exceeds

"(B) the amount of the resources otherwise available to the community spouse (determined without regard to such an allowance).

"(3) TRANSFERS UNDER COURT ORDERS.—If a court has entered an order against an institutionalized spouse for the support of the community spouse, section 1917 shall not apply to amounts of resources transferred pursuant to such order for the support of the spouse of a family member (as defined in subsection (d)(1)).

"(g) INDEXING DOLLAR AMOUNTS.—For services furnished during a calendar year after 1989, the dollar amounts specified in subsections (d)(3)(C), (f)(2)(A)(i), and (f)(2)(A)(ii)(II) shall be increased by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the calendar year involved.

"(h) DEFINITIONS.—In this section:

"(1) The term 'institutionalized spouse' means an individual who—

"(A) is in a medical institution or nursing facility or who (at the option of the State) is described in section 1902(a)(10)(A)(ii)(VI), and

"(B) is married to a spouse who is not in a medical institution or nursing facility;

but does not include any such individual who is not likely to meet the requirements of subparagraph (A) for at least 30 consecutive days.

"(2) The term 'community spouse' means the spouse of an institutionalized spouse.".

(2) Section 1919(c)(1)(B)(i) (42 U.S.C. 1396r(c)(1)(B)(i)) is amended by inserting "and of the requirements and procedures for establishing eligibility for medical assistance under this title, including the right to request an assessment under section 1924(c)(1)(B)" before the semicolon.

(b) TAKING INTO ACCOUNT CERTAIN TRANSFERS OF ASSETS.—Subsection (c) of section 1917 (42 U.S.C. 1396p) is amended to read as follows:

"(c)(1) In order to meet the requirements of this subsection (for purposes of section 1902(a)(51)(B)), the State plan must provide for a period of ineligibility in the case of an institutionalized individual (as defined in paragraph (3)) who, at any time during the 30-month period immediately before the individual's application for medical assistance under the State plan, disposed of resources for less than fair market value. The period of ineligibility shall begin with the month in which such resources were transferred and the number of months in such period shall be equal to the lesser of—

"(A) 30 months, or

"(B)(i) the total uncompensated value of the resources so transferred, divided by (ii) the average 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.

"(2) An individual shall not be ineligible for medical assistance by reason of paragraph (1) to the extent that—

"(A) the resources transferred were a home and title to the home was transferred to—

"(i) the spouse of such individual;

"(ii) a child of such individual who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614;

"(iii) a sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution or nursing facility; or

"(iv) a son or daughter of such individual (other than a child described in clause (ii)) who was residing in such individual's home for a period of at least two years immediately before the date of such individual's admission to the medical institution or nursing facility, and who (as determined by the State) provided care to such individual which permitted such individual to reside at home rather than in such an institution or facility;

"(B) the resources were transferred to (or to another for the sole benefit of) the community spouse, as defined in section 1924(h)(2), or the individual's child who is blind or permanently and totally disabled;

"(C) a satisfactory showing is made to the State (in accordance with any regulations promulgated by the Secretary) that (i) the individual intended to dispose of the resources either at fair market value, or for other valuable consideration, or (ii) the resources were transferred exclusively for a purpose other than to qualify for medical assistance; or

"(D) the State determines that denial of eligibility would work an undue hardship.

"(3) In this subsection, the term 'institutionalized individual' means an individual who is an inpatient in a medical institution or nursing facility.

"(4) A State (including a State which has elected treatment under section 1902(f)) may not provide for any period of ineligibility for an individual due to transfer of resources for less than fair market value except in accordance with this subsection.".

(c) NEW SSI POLICY REGARDING DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.—

(1) ELIMINATION OF SSI PENALTY; NOTIFICATION OF MEDICAID POLICY LIMITING ELIGIBILITY OF INSTITUTIONALIZED INDIVIDUALS FOR BENEFITS BASED ON SUCH DISPOSAL OF RESOURCES.—Subsection (c) of section 1613 (42 U.S.C. 1382b) is amended to read as follows:

"Notification of Medicaid Policy Restricting Eligibility of Institutionalized Individuals for Benefits Based on Disposal of Resources for Less Than Fair Market Value

"(c)(1) At the time an individual (and the individual's eligible spouse, if any) applies for benefits under this title, and at the time the eligibility of an individual (and such spouse, if any) for such benefits is redetermined, the Secretary shall—

"(A) inform such individual of the provisions of section 1917(c) providing for a period of ineligibility for benefits under title XIX for individuals who make certain dispositions of resources for less than fair market value, and inform such individual that information obtained pursuant to subparagraph (B) will be made available to the State agency administering a State plan under title XIX (as provided in paragraph (2)); and

"(B) obtain from such individual information which may be used by the State agency in determining whether or not a period of ineligibility for such benefits would be required by reason of section 1917(c) if such individual (or such spouse, if any) enters a medical institution or nursing facility.

"(2) The Secretary shall make the information obtained under paragraph (1)(B) available, on request, to any State agency administering a State plan approved under title XIX.".

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 1611(e)(1) (42 U.S.C. 1382(e)(1)) is amended by adding after and below clause (iii) the following new sentence:

"For purposes of this subsection, a hospital, extended care facility, nursing home, or intermediate care facility which is a 'medical institution or nursing facility' within the meaning of section 1917(c) shall be considered to be receiving payments with respect to an individual under a State plan approved under title XIX during any period of ineligibility of such individual provided for under the State plan pursuant to section 1917(c).".

(d) DISREGARDING PAYMENTS FOR CERTAIN MEDICAL EXPENSES BY INSTITUTIONALIZED INDIVIDUALS.—Section 1902 (42 U.S.C. 1396), as amended by the amendment made by section 411(n)(3) of this Act, is amended by adding at the end the following new subsection:

"(r) For purposes of sections 1902(a)(17) and 1924(d)(1)(D) and for purposes of a waiver under section 1915, with respect to the post-eligibility treatment of income of individuals who are institutionalized or receiving home or community-based services under such a waiver, there shall be taken into account amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including—

"(A) medicare and other health insurance premiums, deductibles, or coinsurance, and

"(B) necessary medical or remedial care recognized under State law but not covered under the State plan under this title, subject to reasonable limits the State may establish on the amount of these expenses.".

(e) CONFORMING AMENDMENT.—Section 1902 (42 U.S.C. 1396a), as amended by the amendment made by section 411(n)(3) of this Act, is amended—

(1) in subsection (a)(10)(C)(i)(III), by striking "the same" each place it appears and inserting "no more restrictive than the";

(2) by striking "and" at the end of subsection (a)(49);

(3) by striking the period at the end of the subsection (a)(50) and inserting "; and";

(4) by inserting after paragraph (50) of subsection (a) the following new paragraph:

"(51)(A) meet the requirements of section 1924 (relating to protection of community spouses), and (B) meet the requirement of section 1917(c) (relating to transfer of assets)."; and

(5) in subsection (r), as added by subsection (d)—

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

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

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

"(2)(A) The methodology to be employed in determining income and resource eligibility for individuals under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), (a)(10)(A)(ii), (a)(10)(C)(i)(III), or under subsection (f) may be less restrictive, and shall be no more restrictive, than the methodology—

"(i) in the case of groups consisting of aged, blind, or disabled individuals, under the supplemental security income program under title XVI, or

"(ii) in the case of other groups, under the State plan most closely categorically related.

"(B) For purposes of this subsection and subsection (a)(10), methodology is considered to be 'no more restrictive' if, using the methodology, additional individuals may be eligible for medical assistance and no individuals who are otherwise eligible are made ineligible for such assistance.".

(f) TREATMENT OF HOMESTEAD EXEMPTION IN MISSOURI.—The State medical assistance plan of Missouri shall not be in compliance with the requirements of title XIX of the Social Security Act as of October 1, 1989, unless such plan is amended to provide that, in determining the resources of any aged, blind, or disabled individual in the State who applies for medical assistance under such plan on or after such date, the State will not consider the home of the individual as a resource, regardless of the value of the home.

(g) EFFECTIVE DATE.—

(1)(A) The amendments made by this section apply (except as provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after September 30, 1989, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) Section 1924 of the Social Security Act (as inserted by subsection (a)) shall only apply to institutionalized individuals who begin continuous periods of institutionalization on or after September 30, 1989, except that subsections (b) and (d) of such section (and so much of subsection (e) of such section as relates to such other subsections) shall apply as of such date to individuals institutionalized on or after such date.

(2)(A) The amendment made by subsection (b) and section 1902(a)(51)(B) of the Social Security Act, apply (except as provided in paragraph (5)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1988, or the date of the enactment of this Act, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) Section 1917(c) of the Social Security Act, as amended by subsection (b) of this section, shall apply to resources disposed of on or after July 1, 1988.

(C) Notwithstanding subparagraphs (A) and (B), a State may continue to apply the policies contained in the State plan as of June 30, 1988, with respect to resources disposed of before July 1, 1988.

(3) The amendments made by subsection (c) shall apply to transfers occurring on or after July 1, 1988, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(4) The amendment made by subsection (d) is effective on and after April 8, 1988. The final rule of the Health Care Financing Administration published on February 8, 1988 (53 Federal Register 3586) is superseded to the extent inconsistent with the amendment made by subsection (d).

(5) 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 section (other than subsection (e)), 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.

(6) The amendments made by paragraphs (1) and (5) of subsection (e) shall apply to medical assistance furnished on or after October 1, 1982.

TITLE IV—UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE, OBRA TECHNICAL CORRECTIONS, AND MISCELLANEOUS PROVISIONS

SUBTITLE A—UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE

SEC. 401. ESTABLISHMENT.

There is established a commission to be known as the United States Bipartisan Commission on Comprehensive Health Care (in this title referred to as the "Commission").

SEC. 402. DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) examine shortcomings in the current health care delivery and financing mechanisms that limit or prevent access of all individuals in the United States to comprehensive health care, and

(2) make specific recommendations to the Congress respecting Federal programs, policies, and financing needed to assure the availability of—

(A) comprehensive long-term care services for the elderly and disabled,

(B) comprehensive health care services for the elderly and disabled, and

(C) comprehensive health care services for all individuals in the United States.

(b) CONSIDERATIONS IN RECOMMENDATIONS.—In making its recommendations, the Commission shall consider—

(1) the amount and sources (consistent with principles of social insurance) of Federal funds to finance the needed services, including reallocations of existing Federal program funds, and

(2) the most efficient and effective manner of administering such programs.

(c) DEFINITIONS.—In this title:

(1) The term "comprehensive health care services" includes—

(A) inpatient hospital services (including mental health services);

(B) skilled nursing facility services, intermediate care facility services, home health services, and other long-term health care services;

(C) physician services and other outpatient health care services (including mental health services);

(D) periodic general physical examinations, eye examinations, hearing examinations, dental examinations, foot examinations, and other preventive health care services; and

(E) prescription drugs, eyeglasses, hearing aids, orthopedic equipment, and dentures (both complete and partial).

(2) The term "comprehensive long-term care services" includes custodial and noncustodial services in facilities, as well as home and community-based services.

SEC. 403. MEMBERSHIP.

(a) APPOINTMENT.—The Commission shall be composed of 15 members appointed as follows:

(1) The President shall appoint 3 members.

(2) The President Pro Tempore of the Senate shall appoint, after consultation with the minority leader of the Senate, 6 members of the Senate, of whom not more than 4 may be of the same political party.

(3) The Speaker of the House of Representatives shall appoint, after consultation with the minority leader of the House of Representatives, 6 members of the House, of whom not more than 4 may be of the same political party.

(b) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall elect a chairman and vice chairman from among its members.

(c) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(d) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under section 405(a).

(e) MEETINGS.—The Commission shall meet at the call of its chairman or a majority of its members.

(f) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

SEC. 404. STAFF AND CONSULTANTS.

(a) STAFF.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(b) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b)

of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

SEC. 405. POWERS.

(a) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(b) STUDIES BY GENERAL ACCOUNTING OFFICE.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(c) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(1) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(2) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under paragraph (1).

(d) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(e) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(f) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies.

(g) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(h) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(i) ACCEPTANCE OF DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 406. REPORT.

(a) REPORT ON COMPREHENSIVE LONG-TERM CARE SERVICES FOR THE ELDERLY AND DISABLED.—The Commission shall submit to Congress a report, not later than 6 months after the date of the enactment of this Act, containing its findings and recommendations regarding comprehensive long-term care services for the elderly and disabled. The report shall include detailed recommendations for appropriate legislative initiatives respecting such services.

(b) REPORT ON COMPREHENSIVE HEALTH CARE SERVICES.—The Commission shall submit to Congress a report, not later than 1 year after the date of the enactment of this Act, containing its findings and recommendations regarding comprehensive health care services for the elderly and disabled and comprehensive health care services for all individuals in the United States. The report shall include detailed recommendations for appropriate legislative initiatives respecting such services.

SEC. 407. TERMINATION.

The Commission shall terminate 30 days after the date of submission of the report required in section 406(b).

SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,500,000 to carry out this title.

SUBTITLE B—OBRA TECHNICAL CORRECTIONS

SEC. 411. TECHNICAL CORRECTIONS TO CERTAIN HEALTH CARE PROVISIONS IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.

(a) REFERENCE TO OBRA AND EFFECTIVE DATES.—

(1) REFERENCE.—In this section, the term "OBRA" refers to the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203).

(2) EFFECTIVE DATE.—Except as specifically provided in this section, the amendments made by this section, as they relate to a provision in OBRA, shall be effective as if they were included in the enactment of that provision in OBRA.

(3) RATIFICATION OF ENROLLMENT CORRECTIONS AND PRINTED ENROLLMENT.—

(A) IN GENERAL.— Except as provided in subparagraph (B), the enrollment corrections noted in footnotes numbered 9 through 72 of OBRA are hereby ratified and shall be considered to have been enacted as part of OBRA. The printed enrollment of title IV of OBRA, as prepared and printed under section 8004 of OBRA (including the footnote corrections described in subparagraph (B) and as incorporating the clarifications described in subparagraph (C)), shall be deemed to constitute title IV of OBRA as enacted.

(B) FOOTNOTE CORRECTIONS.—(i) With respect to the reference to which footnote 28 relates (101 Stat. 1330-81), the reference shall be deemed to have read "1320a-7b)".

(ii) With respect to the word to which footnote 30 relates (101 Stat. 1330-91), the word shall be deemed to have read "the".

(iii) With respect to the designation to which footnote 52 relates (101 Stat. 1330-151), the designation shall be deemed to have read "(F)".

(C) CLARIFICATIONS OF ILLEGIBLE MATTER.—(i) Section 1842(n)(1)(A) of the Social Security Act, as added by section 4051(a) of OBRA (101 Stat. 1330-93), is deemed to have the phrase "the supplier's reasonable charge to individuals enrolled under this part for the test" immediately after "or, if lower, the".

(ii) Section 1834(a)(7)(B)(i) of the Social Security Act, as inserted by section 4062(b) of OBRA (101 Stat. 1330-103), is deemed to have a reference to "1987" immediately after "December".

(b) CORRECTIONS RELATING TO PART 1 OF SUBTITLE A OF TITLE IV (PART A OF THE MEDICARE PROGRAM).—

(1) SECTION 4002.—(A) Subclauses (III) and (IV) of section 1886(b)(3)(B)(i) of the Social Security Act, as amended by section 4002(a) of OBRA, are amended by striking "other hospitals" and inserting "for hospitals located in other urban areas".

(B) Section 1886(b)(3)(B)(i)(IV) of the Social Security Act, as amended by section 4002(a) of OBRA, is amended by striking "percent" each place it appears and inserting "percentage points".

(C) Section 1886(b)(3)(B)(i)(V) of the Social Security Act, as amended by section 4002(a) of OBRA, is amended by inserting "increase" after "market basket percentage".

(D) The second sentence of section 1886(d)(2)(D) of the Social Security Act, as amended by section 4002(b) of OBRA, is amended by striking "the publication described in subsection (e)(5)(B)" and inserting "the publications described in subsection (e)(5)".

(E) Section 4002(c)(1)(B)(iii) of OBRA is amended, in the matter stricken, by striking the comma after "available".

(F) Section 1886(d)(3)(A)(ii) of the Social Security Act, as amended by section 4002(c)(1)(C) of OBRA, is amended by striking "in urban areas" and inserting "in other urban areas".

(G) Section 1886(d)(1)(A)(iii) of the Social Security Act, as amended by section 4002(d) of OBRA, is amended by striking "if greater" and inserting "if the average standardized amount (described in clause (i)(I) or clause (ii)(I) of paragraph (3)(D)) for hospitals within the region of, and in the same rural, large urban, or other urban area as, the hospital is greater than the average standardized amount (described in the respective clause) for hospitals within the United States in that type of area".

(H)(i) Section 1886(d)(2)(D) of the Social Security Act is amended by striking the last sentence (added by section 4002(f)(1)(A) of OBRA).

(ii) Section 4002(f) of OBRA is amended by adding at the end the following new paragraph:

"(3) The second sentence of section 1813(b)(1) of the Social Security Act (42 U.S.C. 1395e(b)(1)) is amended by striking 'applicable percentage increase' and all that follows through 'is applied' and inserting 'Secretary's best estimate of the payment-weighted average of the applicable percentage increases (as defined in section 1886(b)(3)(B)) which are applied'.".

(iii) The amendment made by clause (ii) shall apply to the inpatient hospital deductible for years beginning with 1989.

(I) Section 4002(g) of OBRA is amended—

(i) in paragraph (1)(A), by striking "1886(a)(1)(A)(iii)" and inserting "1886(d)(1)(A)(iii)",

(ii) in paragraphs (1)(B) and (2)(B), by striking "1886(d)(3)(B)" and inserting "1886(b)(3)(B)", and

(iii) in paragraph (6), by striking "1886(d)(10)(B)" and inserting "1886(d)(1)(B)".

(2) SECTION 4003.—Section 4003(d) of OBRA is amended—

(A) in paragraph (2)—

(i) by inserting "(other than under section 1886(d)(5)(F) of such Act)" after "receives payments", and

(ii) by inserting "of such services" after "reasonable costs"; and

(B) in the matter following paragraph (2), by inserting "the" after "facilities of".

(3) SECTION 4004.—Section 4004(a) of OBRA is amended by inserting "(1)" after "SURVEY.—" and by adding at the end the following new paragraph:

"(2) Section 1886(d)(9)(C)(iv) of such Act is amended by adding at the end the following new sentence: 'The second and third sentences of paragraph (3)(E) shall apply to subsection (d) Puerto Rico hospitals under this clause in the same manner as they apply to subsection (d) hospitals under such paragraph and, for purposes of this clause, any reference in such paragraph to a subsec-

tion (d) hospital is deemed a reference to a subsection (d) Puerto Rico hospital.'.".

(4) SECTION 4005.—(A) Section 1886(d)(8)(B) of the Social Security Act, as added by section 4005(a)(1)(D) of OBRA, is amended—

(i) by striking "The Secretary" and inserting "For purposes of this subsection, the Secretary", and

(ii) by striking all that follows "if" and inserting the following: "the rural county would otherwise be considered part of an urban area, under the standards for designating Metropolitan Statistical Areas (and for designating New England County Metropolitan Areas) published in the Federal Register on January 3, 1980, if the commuting rates used in determining outlying counties (or, for New England, similar recognized areas) were determined on the basis of the aggregate number of resident workers who commute to (and, if applicable under the standards, from) the central county or counties of all contiguous Metropolitan Statistical Areas (or New England County Metropolitan Areas).".

(B) Section 1886(d)(8)(C) of the Social Security Act, as added by section 4005(a)(1)(D) of OBRA, is amended by striking "standardized amount" and inserting "standardized amounts".

(C) Section 4005(a) of OBRA is amended—

(i) in paragraph (1)(D), by striking "subparagraph" and inserting "subparagraphs", and

(ii) in paragraph (3), by striking "This section, and the amendments made by paragraph (1)," and inserting "This subsection".

(D) Section 1883(d)(3) of the Social Security Act, as added by section 4005(b)(2)(B) of OBRA, is amended by inserting before the period at the end the following: ", except that such payment shall continue to be made in the period for those patients who are receiving extended care services at the time the hospital reaches the limit specified in this paragraph".

(5) SECTION 4006.—(A) Section 1886(g)(3)(A)(iv) of the Social Security Act, as amended by section 4006(a) of OBRA, is amended by inserting "for payments attributable" after "15 percent".

(B) Section 4006(a) of OBRA is amended—

(i) by adding "and" at the end of subparagraph (A), and

(ii) by redesignating (A) and (B) as paragraphs (1) and (2), respectively.

(6) SECTION 4007.—Section 4007 of OBRA is amended—

(A) in the second sentence of subsection (a), by striking "updata" and inserting "updated";

(B) by amending subsection (b) to read as follows:

"(b) REQUIRING REPORTING OF STANDARDIZED COST REPORT ELECTRONICALLY.—

"(1) IN GENERAL.—Section 1886(f)(1) of the Social Security Act (42 U.S.C. 1395ww(f)(1)) is amended—

"(A) by striking ', for a period ending not earlier than September 30, 1988,',

"(B) by inserting '(A)' after '(f)(1)', and

"(C) by adding at the end the following new subparagraph:

" '(B)(i) Subject to clause (ii), the Secretary shall place into effect a standardized electronic cost reporting format for hospitals under this title.

" '(ii) The Secretary may delay or waive the implementation of such format in particular instances where such implementation would result in financial hardship (in particular with respect to hospitals with a small percentage of inpatients entitled to benefits under this title).'.

"(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(C) shall apply to hospital cost reporting periods beginning on or after October 1, 1989."; and

(C) in subsection (c)—

(i) in paragraph (1)—

(I) by striking "3-year", and

(II) by striking "contracting" and inserting "conducting";

(ii) in paragraph (2), by striking "by category of service and" in subparagraphs (A) and (B);

(iii) in paragraph (2)(C), by striking "(by category of service)";

(iv) in paragraph (2), by striking subparagraph (D) and redesignating subparagraphs (E) through (L) as subparagraphs (D) through (K), respectively;

(v) by amending subparagraph (I), as so redesignated, to read as follows:

"(I) Bad debt and charity care.";

(vi) in paragraph (2), by adding at the end the following:

"The Secretary shall develop a definition of 'outpatient visit' for purposes of reporting hospital information.";

(vii) in paragraph (5), by striking "paragraph (3)" and inserting "paragraph (2)";

(viii) in paragraph (5)(A), by striking "The terms" and all that follows through "as" and inserting "The term 'bad debt and charity care' has such meaning as";

(ix) in paragraph (5)(B)—

(I) by inserting "at least" after "to payors",

(II) by striking "title VIII" and inserting "title XVIII", and

(III) by striking "self-paying individuals" and inserting "and other persons (including self-paying individuals)"; and

(x) in paragraph (6)—

(I) by striking "$1,000,000 for each of" and inserting "a total of $3,000,000 for",

(II) by inserting "or from operation funds" after "research funds",

(III) by striking ", and at least" and all that follows through "operations funds" and inserting "and", and

(IV) by striking "over 3 years".

(7) SECTION 4008.—Section 4008(d)(1)(B) of OBRA is amended by striking "1886" and inserting "1886(d)".

(8) SECTION 4009.—(A) Section 4009(a) of OBRA is amended—

(i) by striking paragraphs (1) and (2) and inserting the following:

"(1) INCREASE IN CIVIL MONETARY PENALTY AND EXCLUSION OF RESPONSIBLE PHYSICIAN VIOLATORS.—Section 1867(d)(2) of the Social Security Act (42 U.S.C. 1395dd(d)(2)) is amended—

"(A) in the second sentence—

"(i) by redesignating such sentence as subparagraph (C),

"(ii) by striking 'previous sentence' and inserting 'this paragraph', and

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

"(B) by striking the first sentence and inserting the following: '(A) A participating hospital that knowingly violates a requirement of this section is subject to a civil money penalty of not more than $50,000 for each such violation. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply with respect to a penalty or proceeding under section 1128A(a).

" '(B) The responsible physician in a participating hospital with respect to the hospital's violation of a requirement of this subsection is subject to the sanctions described in section 1842(j)(2), except that, for purposes of this subparagraph, the civil money penalty with respect to each violation may not exceed $50,000, rather than $2,000.' "; and

(ii) by redesignating paragraph (3) as paragraph (2).

(B) Section 4009(d)(1)(A) of OBRA is amended, in the matter inserted by such section, by striking the comma after "representatives".

(C) Section 4009(i) of OBRA is amended by striking "New England county metropolitan areas" and "4001(b)" and inserting "urban areas in New England" and "4002(b)", respectively.

(D) Section 4009(j) of OBRA is amended by adding at the end the following new paragraphs:

"(9) Section 1818(c) of the Social Security Act (42 U.S.C. 1395i-2(c)) is amended by striking paragraph (4) and redesignating paragraphs (5) through (7) as paragraphs (4) through (6), respectively.

"(10) Section 9305(d) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking '2 years after the date of the enactment of this Act' and inserting 'January 1, 1990'.".

(c) CORRECTIONS RELATING TO SUBPART A OF PART 2 OF SUBTITLE A OF TITLE IV (HEALTH MAINTENANCE ORGANIZATION REFORMS).—

(1) SECTION 4011.—Subparagraph (F) of section 1876(c)(3) of the Social Security Act, as added by the amendment made by section 4011(a)(1) of OBRA, is amended by moving its indentation 4 ems to the left so its left margin is aligned with the left margin of subparagraph (G) of that section, as added by section 4011(b)(1) of OBRA.

(2) SECTION 4012.—(A)(i) Section 1866(a)(1)(O) of the Social Security Act, as inserted by section 4012(a) of OBRA, is amended by striking "with a risk-sharing contract under section 1876" and inserting "(i) with a risk-sharing contract under section 1876, under section 1876(i)(2)(A) (as in effect before February 1, 1985), under section 402(a) of the Social Security Amendments of 1967, or under section 222(a) of the Social Security Amendments of 1972, and (ii) which does not have a contract establishing payment amounts for services furnished to members of the organization".

(ii) The amendment made by clause (i) shall apply to admissions occurring on or after the first day of the fourth month beginning after the date of the enactment of this Act.

(B) Section 4012(c) of OBRA is amended by striking "paragraph (2)" and inserting "subsection (a)".

(3) SECTION 4013.—Section 4013 of OBRA is amended by striking "(a) IN GENERAL" and all that follows through the end and inserting the following:

"Section 2350(b)(3) of the Deficit Reduction Act of 1984 is amended by striking 'four years after the date of the enactment of this Act' and inserting 'September 30, 1990'.".

(4) SECTION 4014.—Section 1876(i)(6) of the Social Security Act, as amended by section 4014 of OBRA, is amended—

(A) in subparagraph (A), by inserting ", in addition to any other remedies authorized by law," after "the Secretary may provide", and

(B) in the last sentence of subparagraph (B), by striking "under that section" and inserting "or proceeding under section 1128A(a)".

(5) SECTION 4018.—Section 1876(f)(3)(A) of the Social Security Act, as inserted by section 4018(a) of OBRA, is amended—

(A) by inserting "enrollment and residency requirements under this section and for" after "for purposes of", and

(B) by striking "of the subdivision" and inserting "described in subparagraph (B)(iii) who receive services through the subdivision".

(d) CORRECTIONS RELATING TO SUBPART B OF PART 2 OF SUBTITLE A OF TITLE IV (HOME HEALTH QUALITY).—

(1) SECTION 4021.—(A) Section 1891(a) of the Social Security Act, as added by section 4021(b) of OBRA, is amended—

(i) in paragraph (3)(A), by striking "who is not a licensed health care professional (as defined in subparagraph (F))",

(ii) in paragraph (3)(F), by inserting "physical or occupational therapy assistant," after "occupational therapist,", and

(iii) by striking paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(B)(i) Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)) is amended by inserting before the period at the end the following: "; except that such term does not include such equipment furnished by a supplier who has used, for the demonstration and use of specific equipment, an individual who has not met such minimum training standards as the Secretary may establish with respect to the demonstration and use of such specific equipment".

(ii) The amendment made by clause (i) shall apply to equipment furnished on or after the effective date provided in section 4021(c) of OBRA.

(2) SECTION 4022.—(A) The third sentence of section 1891(c)(1) of the Social Security Act, as added by section 4022(a) of OBRA, is amended by inserting "(other than subsections (a) and (b))" after "1128A".

(B) Section 1891(d)(2)(A) of the Social Security Act, as added by section 4022(a) of OBRA, is amended by striking "1991" and inserting "1992".

(3) SECTION 4023.—(A) Section 4023 of OBRA is amended by inserting "(a) IN GENERAL.—" before "Section 1891".

(B) Section 1891(f)(2)(A) of the Social Security Act, as added by section 4023 of OBRA, is amended—

(i) by moving the indentation of clauses (i) through (iii) (and the sentence following clause (iii)) 2 ems to the left,

(ii) in clause (i), by striking "for each day of noncompliance" and inserting "in an amount not to exceed $10,000 for each day of noncompliance", and

(iii) by inserting after and below clause (iii), the following:

"The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(C) Section 4023(b) of OBRA is amended by inserting before the period at the end the following: ", and no intermediate sanction described in section 1891(f)(2)(A) of such Act shall be imposed for violations occurring before such effective date".

(4) SECTION 4025.—(A) Section 1864(a) of the Social Security Act is amended—

(i) in the first sentence added by section 4025(a) of OBRA, by striking "most recent accreditation survey conducted with respect to the agency," and inserting "most recent accreditation survey conducted by a State agency or private accreditation agency under section 1865 with respect to the home health agency,", and

(ii) in the second sentence so added—

(I) by inserting "such State or local" before "agency" the first place it appears, and

(II) by striking "section 1864" and inserting "section 1865".

(B) Section 4025 of OBRA is amended—

(i) in subsection (b), by striking "subsection (a)" and inserting "this section" and by redesignating such subsection as subsection (c), and

(ii) by inserting after subsection (a) the following new subsection:

"(b) CONFORMING AMENDMENT.—The last sentence of section 1865(a) of such Act (42 U.S.C. 1395bb(a)) is amended by inserting 'other than a survey with respect to a home health agency' after 'any accreditation survey'.".

(5) SECTION 4026.—(A) Section 1861(v)(1)(L)(iii) of the Social Security Act, as added by section 4026(a)(1) of OBRA, is amended—

(i) by striking "audited" each place it appears and inserting "verified", and

(ii) by adding at the end the following:

"In the case of a home health agency that refuses to provide data, or deliberately provides false data, respecting wages for purposes of this clause upon the request of the Secretary, the Secretary may withhold up to 5 percent of the amount of the payments otherwise payable to the agency under this title until such date as the Secretary determines that such data has been satisfactorily provided.".

(B) Section 4026(a)(2) of OBRA is amended by striking "July 1, 1988" and inserting "July 1, 1989".

(C) Section 4026(b) of OBRA is amended by striking "June 1, 1988" and inserting "June 1, 1989".

(6) SECTION 4027.—Section 4027(a) of OBRA is amended by striking "July 1, 1988" and inserting "April 1, 1989".

(e) CORRECTIONS RELATING TO SUBPART C OF PART 2 OF SUBTITLE A OF TITLE IV (OTHER MEDICARE PART A AND B PROVISIONS).—

(1) SECTION 4032.—(A) Section 4032 of OBRA is amended by striking "AND PHYSICIAN REVIEW" in the heading of subsection (a) and by striking "AND CARRIERS" in the heading of subsection (b).

(B) Section 1816(j)(2) of the Social Security Act, as added by section 4032(a) of OBRA, is amended—

(i) by inserting "in the case of a request for reconsideration of a denial," after "(2)", and

(ii) by inserting "the" before "disposition".

(C) Section 4032(c)(1)(B) of OBRA is amended by striking "claims filed" and inserting "reconsiderations requested".

(2) SECTION 4033.—Section 4033 of OBRA is amended—

(A) by striking "(a) IN GENERAL.—";

(B) by redesignating paragraphs (1) and (2) (and subparagraphs (A) and (B) of paragraph (2)) as subsections (a) and (b) (and paragraphs (1) and (2) of subsection (b)), respectively; and

(C) by aligning the left margins of the matter in such section flush left.

(3) SECTION 4039.—Section 4039 of OBRA is amended by adding at the end the following new subsection:

"(h) TECHNICAL CORRECTIONS.—

"(1) Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a-7a(b)) is amended—

"(A) in paragraph (1)(A), by striking 'XVII' and inserting 'XVIII', and

"(B) in paragraph (2) by inserting 'each' after '$2,000 for'.

"(2) Section 1138(a)(1)(B) of such Act (42 U.S.C. 1320b-8(a)(1)(B)) is amended by striking 'In' and inserting 'in'.

"(3) Section 1154(a)(4) of such Act (42 U.S.C. 1320c-3(a)(4)) is amended—

"(A) by indenting subparagraphs (B) and (C) (and clauses (i) through (iii) of subparagraph (C)) two additional ems;

"(B) in subparagraph (B), by inserting 'risk-sharing' before 'contract under section 1876'; and

"(C) in subparagraph (C)(i), by adding before the comma at the end the following: '(other than the ability to perform review functions under this section that are not described in subparagraph (B))'.

"(4) Section 1154(d) of such Act (42 U.S.C. 1320c-3(d)) is amended by striking '1164(b)(4)' and inserting '1164'.

"(5) Section 1156(b) of such Act (42 U.S.C. 1320c-5(b)) is amended—

"(A) in the second sentence of paragraph (1), by striking 'such services on a reimbursable basis.' and inserting 'services under this Act on a reimbursable basis.', and

"(B) in paragraph (2), by striking 'at such time' and all that follows through 'and shall remain' and inserting 'on the same date and in the same manner as an exclusion from participation under the programs under this Act becomes effective under section 1128(c), and shall remain'.

"(6) Section 1160 of such Act (42 U.S.C. 1320c-9) is amended by adding at the end the following new subsection:

" '(e) For purposes of this section and section 1157, the term "organization with a contract with the Secretary under this part" includes an entity with a contract with the Secretary under section 1154(a)(4)(C).'.

"(7) The heading of section 1870 of such Act (42 U.S.C. 1395gg) is amended to read as follows:

'OVERPAYMENT ON BEHALF OF INDIVIDUALS AND SETTLEMENT OF CLAIMS FOR BENEFITS ON BEHALF OF DECEASED INDIVIDUALS'.

"(8) Section 1876(i)(7) of such Act (42 U.S.C. 1395mm(i)(7)) is amended—

"(A) in subparagraph (A), by striking 'Except as provided under section 1154(a)(4)(C), each' and inserting 'Each';

"(B) in subparagraph (A), by inserting 'or with an entity selected by the Secretary under section 1154(a)(4)(C)' after 'located)'; and

"(C) by striking 'peer' in subparagraph (B) and the second place it appears in subparagraph (A).

"(9) Section 9353 of the Omnibus Budget Reconciliation Act of 1986 is amended—

"(A) in subsection (a)(6)(A)(i), by striking 'paragraphs (1) and (2)(D) shall apply to contracts as of' and inserting 'paragraph (1) shall apply to contracts entered into or renewed on or after';

"(B) in subsection (a)(6)(B), by striking 'amendment made by paragraph (2)(B)' and inserting 'amendments made by paragraphs (2)(B) and (2)(D)'; and

"(C) in subsection (e)(3)(B), by adding at the end the following: 'The provisions of section 1876(i)(7) of the Social Security Act (added by such amendment) shall apply to health maintenance organizations with contracts in effect under section 1876 of such Act (as in effect before the date of the enactment of Public Law 97-248) in the same manner as it applies to eligible organizations with risk-sharing contracts in effect under section 1876 of such Act (as in effect on the date of the enactment of this Act).'.".

(f) CORRECTIONS RELATING TO SUBPART A OF PART 3 OF SUBTITLE A OF TITLE IV (PAYMENTS FOR PHYSICIANS' SERVICES).—

(1) SECTION 4041.—(A) Section 4041(a)(1)(B) of OBRA is amended—

(i) by inserting "as amended retroactively by section 4085(i)(7)(C)," after "(j)(1)(C),", and

(ii) by redesignating the clause added by such section as clause (viii).

(B) The last sentence of section 1842(b)(2) of the Social Security Act, as added by section 4041(a)(3)(A) of OBRA, is amended by striking "and subsection (h)" and inserting ", subsection (h), and section 1845(f)(2)".

(C) Subclause (II) of section 4041(a)(3)(B)(iii) of OBRA is amended to read as follows:

"(II) by striking 'April 1' and inserting 'September 30', and".

(2) SECTION 4042.—(A) Section 1842(b)(4)(F)(iii) of the Social Security Act, as added by section 4042(a) of OBRA, is amended—

(i) in subclause (I), by striking the semicolon and inserting a comma, and

(ii) in subclause (II), by striking "physician's" and inserting "physicians' ".

(B) Section 1842(b)(4)(F)(ii)(I) of the Social Security Act, as added by section 4042(a) of OBRA, is amended by striking "subparagraph (E)(iii)" and inserting "subsection (i)(4)".

(C) Section 4042(b) of OBRA is amended by striking "Section" and all that follows up to "The term" and inserting the following:

"(1) Section 1842 of such Act (42 U.S.C. 1395u) is amended—

"(A) in subsection (h)(7), by striking ', described in paragraph (8)';

"(B) in paragraph (8) of subsection (h)—

"(i) by striking '(8) For purposes of this title, a' and inserting '(1) A',

"(ii) by indenting such paragraph 2 ems, and

"(iii) by inserting before such paragraph the following:

" '(i) For purposes of this title:';

"(C) in subsection (b)(4)(E)—

"(i) by striking '(E) In this section:',

"(ii) by redesignating clauses (i) and (ii), as paragraphs (2) and (3), respectively, and

"(iii) by transferring and inserting such paragraphs, as redesignated, before subsection (j);

"(D) in subsection (b)(4), by redesignating subparagraphs (F) and (G) of subsection (b)(4), as subparagraphs (E) and (F), respectively; and

"(E) by inserting, after the paragraphs transferred and inserted by subparagraph (C)(iii) the following, new paragraph:

" '(4)".

(D) Section 4042(b) of OBRA is further amended by adding at the end the following:

"(2)(A) Section 1842(b)(4)(A)(vii) of such Act, as redesignated by sections 4041(a)(1)(A)(i) and 4044(a) is amended by striking 'subparagraph (E)(ii)' and inserting 'subsection (i)(3)'.

"(B) Section 1833(l)(2) of such Act (42 U.S.C. 1395l(l)(2)) is amended by striking '1842(b)(4)(E)(ii)' and inserting '1842(i)(3)'.".

(E) The last sentence of section 1842(b)(4)(A)(iv)(II) of the Social Security Act, as added by section 4042(c)(2) of OBRA, is amended by striking "January 1, 1988" and inserting "January 1, 1989".

(F) Section 4042(c) of OBRA is amended—

(i) by striking "Section" and all that follows up to "In the previous sentence" and inserting the following:

"(1) The first sentence of clause (iv) of section 1842(b)(4)(A) of such Act (42 U.S.C. 139u(b)(4)(A)) is amended to read as follows: 'The reasonable charge for physicians' services furnished on or after January 1, 1987, by a nonparticipating physician shall be no greater than the applicable percent of the prevailing charge levels established under the third and fourth sentences of paragraph (3) (or under any other applicable provision of law affecting the prevailing charge level).'.", and

(ii) by adding at the end the following:

"(2) Subclauses (I) and (II) of section 1842(j)(1)(C)(i) of such Act are amended by striking 'prevailing charge for the year involved for such service furnished by nonparticipating physicians' and inserting 'applicable percent (as defined in subsection (b)(4)(A)(iv)) of the prevailing charge for the year and service involved'.".

(3) SECTION 4044.—(A) Section 4044(a) of OBRA is amended by striking "INCREASE IN PREVAILING CHARGES" and inserting "PREVAILING CHARGE FLOOR".

(B) Section 1842(b)(4)(A)(vi) of the Social Security Act, as inserted by section 4044(a) of OBRA, is amended—

(i) by striking "subparagraph (E)(iii)" and inserting "subsection (i)(4)",

(ii) by striking "the average of the prevailing charge levels" and inserting "the estimated average prevailing charge levels based on the best available data", and

(iii) by striking "for participating physicians".

(4) SECTION 4045.—(A) Section 1842(b)(10) of the Social Security Act, as amended by section 4045(a) of OBRA, is amended—

(i) in subparagraph (A)(i)—

(I) by striking "under paragraph (3)",

(II) by striking "subparagraph (C)" and inserting "subparagraph (B)", and

(III) by striking "for participating and nonparticipating physicians";

(ii) in subparagraph (A)(iii), by striking "clause (i)(II)" and inserting "clause (i)(I)";

(iii) in subparagraph (B) by inserting "(including subsequent insertion of an intraocular lens)" after "cataract surgery"; and

(iv) in subparagraph (D), by inserting "under" after "review".

(B) Section 4045(c)(2) of OBRA is amended—

(i) in subparagraph (B), by inserting before the period at the end the following: "and by striking the second sentence", and

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

"(D) The fourth sentence of section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) is amended by inserting '(or under any other provision of law affecting the prevailing charge level)' after 'the level determined under this sentence'.".

(C) Section 1842(j)(1)(D)(iv) of the Social Security Act, as added by section 4045(c)(1)(B) of OBRA, is amended by striking "imposes a charge" and inserting "bills".

(D)(i) Section 1862(a)(15) of the Social Security Act (42 U.S.C. 1395y(a)(15)) is amended by inserting "(including subsequent insertion of an intraocular lens)" after "operation".

(ii) The amendment made by clause (i) shall apply to operations performed on or after 60 days after the date of the enactment of this Act.

(5) SECTION 4046.—(A) Section 1842(b)(11)(C)(i) of the Social Security Act, as inserted by section 4046(a)(1)(C) of OBRA and as designated by section 4063(a)(1)(A), is amended by striking "implantation" and inserting "insertion".

(B) Section 1842(j)(1)(D)(ii)(IV) of the Social Security Act, as inserted by section 4046(a)(2)(A) of OBRA, is amended by striking "is".

(6) SECTION 4047.—(A) The heading of section 4047 of OBRA is amended by striking "PRIMARY CARE" and inserting "CERTAIN".

(B) Section 1842(b)(4)(G) of the Social Security Act, as added by section 4047(a) of OBRA, is amended—

(i) by inserting "than" after "(other", and

(ii) by striking "(as determined under the third and fourth sentences of paragraph (3) and under paragraph (4))".

(C) Section 4047(b) of OBRA is amended by inserting "on or" after "medicare beneficiaries".

(D) The item in the table of contents of title IV of OBRA relating to section 4047 is amended to read as follows:

"Sec. 4047. Customary charges for certain services of new physicians.".

(7) SECTION 4048.—(A) Paragraph (14) of section 1842(b) of the Social Security Act, as added by section 4048(a) of OBRA, is redesignated as paragraph (13).

(B) Section 4048 of OBRA is amended by adding at the end the following new subsection:

"(e) CONFORMING AMENDMENT TO MAXMIMUM ALLOWABLE ACTUAL CHARGE.—Section 1842(j)(1)(C) of the Social Security Act (42 U.S.C. 1395u(j)(1)(C)), as amended by sections 4085(i)(7)(C) and 4041(a)(1)(B) of this title, is amended by adding at the end the following new clause:

" '(ix) If there is a reduction under subsection (b)(13) in the reasonable charge for medical direction furnished by a nonparticipating physician, the maximum allowable actual charge otherwise permitted under this subsection for such services shall be reduced in the same manner and in the same percentage as the reduction in such reasonable charge.'.".

(8) SECTION 4049.—(A) Section 1834(b)(6) of the Social Security Act, as added by section 4049(a)(2) of OBRA, is amended by striking "radiologic" each place it appears and inserting "radiology".

(B) Section 4049(a) of OBRA is amended—

(i) in paragraph (1), by striking "4062(c)(3)" and inserting "4062(d)(3)", and

(ii) in paragraph (2), by striking "4062(a)" and inserting "4062(b)".

(C) Section 1833(a)(1) of the Social Security Act, as amended by section 4049(a)(1) of OBRA, is amended in the clause added by that section by striking "1834(b)(5)" and inserting "1834(b)(6)".

(D) Section 1834(b) of the Social Security Act, as added by section 4049(a)(2) of OBRA, is amended—

(i) in the headings of paragraphs (4)(D) and (5), by inserting "AND SUPPLIERS" after "PHYSICIANS";

(ii) in paragraph (5)(C), by striking "imposes a charge" and inserting "bills";

(iii) in paragraph (5)(C), by inserting "in the same manner as such sanctions may apply to a physician" after "1842(j)(2)";

(iv) in paragraph (6), by striking ", section 1833(a)(1)(I), and section 1842(h)(1)(B)" and inserting "and section 1833(a)(1)(J)"; and

(v) in paragraph (6)(B), by striking "billings" and inserting "the total amount of charges".

(E) Section 4049(b) of OBRA is amended by striking "establish" and inserting "propose".

(9) SECTION 4051.—Section 1842(n) of the Social Security Act, as added by section 4051(a) of OBRA, is amended—

(A) in paragraph (1) in the matter before subparagraph (A)—

(i) by striking "to a patient",

(ii) by inserting "the bill or request for'" after "for which",

(iii) by striking "his" and inserting "a", and

(iv) by striking "supervised the test" and inserting "supervised the performance of the test";

(B) in paragraph (1)(A), by striking "to individuals enrolled under this part";

(C) in paragraph (2)(A), by inserting "the payment amount specified in paragraph (1)(A) and" after "other than"; and

(D) in paragraph (3), by striking "or supplier".

(10) FIRST SECTION 4052.—(A) Section 1892(a) of the Social Security Act, as added by the first section 4052(a) of OBRA, is amended—

(i) in paragraphs (2)(C)(ii) and (3)(B), by striking "paragraph (3)" and inserting "paragraph (4)",

(ii) in paragraph (4), by striking "bar" and inserting "exclude", and

(iii) in paragraph (4), by inserting before the period at the end the following: "if a State requests that the physician not be excluded".

(B) The first section 4052(b) of OBRA (relating to conforming reference) is amended by striking "338E(b)(1)" and "254o(b)(1)" and inserting "338E(b)(1)(B)(i)" and "254o(b)(1)(B)(i)", respectively.

(C)(i) Section 1892 of the Social Security Act, as added by the first section 4052(a) of OBRA, is amended—

(I) in the heading, by striking "PHYSICIANS" and "SCHOLARSHIP" and inserting "INDIVIDUALS" and "SCHOLARSHIP AND LOAN", respectively;

(II) by striking "physician" each place it appears (other than the third place it appears in subsection (a)(4)) and inserting "individual";

(III) by striking "physician" the third place it appears in subsection (a)(4) and inserting "practitioner";

(IV) in paragraph (1)(A), by inserting ", the Physician Shortage Area Scholarship Program, or the Health Education Assistance Loan Program," after "Scholarship Program";

(V) in subsection (b), by striking ", and (2)" and all that follows through "Act" and inserting "or under subpart III of part F of title VII of such Act (as in effect before October 1, 1976) and which has not been paid by the deadline established by the Secretary pursuant to such respective section"; and

(VI) in subsection (b), by striking the period at the end and inserting "; or" and by adding at the end the following:

"(2) owed by an individual to the United States by reason of a loan covered by Federal loan insurance under subpart I of part C of title VII of the Public Health Service Act and payment for which has not been cancelled, waived, or suspended by the Secretary under such subpart.".

(ii) Section 733(f) of the Public Health Service Act (42 U.S.C. 294f(f)) is amended by adding at the end the following: "Procedures for reduction of payments under the medicare program are provided under section 1892 of the Social Security Act.".

(iii) The amendments made by this subparagraph shall be effective 30 days after the date of the enactment of this Act.

(11) SECOND SECTION 4052.—(A) The second section 4052(a) of OBRA is amended by striking "is amended" and all that follows through the end and inserting the following: "is amended by inserting before the period at the end of the next-to-last sentence the following: ', and shall remain at such prevailing charge level until the prevailing charge for a year (as adjusted by economic index data) equals or exceeds such prevailing charge level'.".

(B) The second section 4052(b) of OBRA is amended by striking "January" and inserting "April".

(12) SECTION 4054.—(A) Section 4054 of OBRA is amended to read as follows:

"SEC. 4054. APPLYING COPAYMENT AND DEDUCTIBLE TO CERTAIN OUTPATIENT PHYSICIANS' SERVICES.

"(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

"(1) in subsection (a)(1), by striking clause (F),

"(2) in subsection (b), by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively, and

"(3) in subsection (i), by striking paragraph (4).

"(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after April 1, 1988.".

(B) The item relating to section 4054 in the table of contents of title IV of OBRA is amended to read as follows:

"Sec. 4054. Applying copayment and deductible to certain outpatient physicians' services.".

(13) SECTION 4055.—Section 4055 of OBRA is amended—

(A) in subsection (a)(2), by striking "such list" and inserting "such definitions", and

(B) in subsection (b)(1), by striking "dermatology,".

(14) REDESIGNATION.—The second section 4052 of OBRA and sections 4053, 4054, and 4055 of OBRA are redesignated as sections 4053 through 4056, respectively.

(g) CORRECTIONS RELATING TO SUBPART B OF PART 3 OF SUBTITLE A OF TITLE IV (PAYMENTS FOR OTHER PART B SERVICES).—

(1) SECTION 4062.—(A) The heading of section 1834 of the Social Security Act, as inserted by section 4062(b) of OBRA, is amended by inserting "ITEMS AND" after "PARTICULAR".

(B) Subsection (a) of section 1834 of the Social Security Act, as so inserted, is amended—

(i) in paragraph (1)(C), by inserting "or under part A to a home health agency" after "under this part";

(ii) in the second sentence of paragraph (2)(A), by striking "rental" before "payments";

(iii) in paragraph (2)(B)(i), by striking "allowed" and inserting "reasonable", and in paragraphs (3)(B)(i) and (8)(A)(i)(I), by striking "allowable" and inserting "reasonable";

(iv) in paragraph (3)(A), by striking the extra space after "ventilators";

(v) in paragraph (4), by inserting after "individual patient" the following: ", and for that reason cannot be grouped with similar items for purposes of payment under this title,";

(vi) in paragraph (4), by inserting "(A)" after "in a lump-sum amount" and by inserting "(B)" after "for that item, and";

(vii) in paragraph (4), by striking "maintenance and service" each place it appears and inserting "maintenance and servicing", in paragraph (7)(A)(iii), by striking "service and maintenance" and inserting "maintenance and servicing", and in paragraphs (7)(A)(ii) and (11)(A), by striking "servicing" and inserting "maintenance and servicing";

(viii) in paragraph (7)(A)(iii)(I), by striking "fee established by the carrier" and inserting "fee or fees established by the Secretary";

(ix) in paragraph (9)(A)(ii)(I), by striking "12-month period" and inserting "6-month period";

(x) in paragraph (9)(A)(ii)(II), by striking "and to 1991" and inserting ", 1991, and 1992";

(xi) in paragraphs (9)(B)(i) and (10)(B)(i), by striking the comma after "1991";

(xii) in paragraph (9)(C)(i), by striking "subparagraph (A)(ii)(I)" and inserting "subparagraph (A)(ii)";

(xiii) in paragraph (10)(B), by inserting before the period the following: "and payments under this subsection as such provisions apply to physicians' services and physicians and a reasonable charge under section 1842(b)";

(xiv) in the last sentence of paragraph (11)(A), by striking "under subsection (j)(2)" and inserting "under section 1842(j)(2)";

(xv) in paragraph (12), by striking "(as defined in section 1886(d)(2)(D))"; and

(xvi) by striking paragraph (14).

(C) Section 4062(c)(4) of OBRA is amended—

(i) by inserting "and payment of a reasonable copying fee which the Secretary may establish" after "upon written request", and

(ii) by inserting before the period at the end the following: ", but only in a form which does not permit identification of individual suppliers".

(D) The last sentence of section 1866(a)(2)(A) of the Social Security Act, as added by section 4062(d)(4) of OBRA, is amended by striking "section 1834(a)(2)" and inserting "section 1834(a)(1)(B)".

(E) The matter added by section 4062(d)(3)(A)(ii) of OBRA is amended by striking "and" before "(I)".

(2) SECTION 4063.—(A) Section 1842(b)(11)(C)(ii) of the Social Security Act, as amended by section 4063(a)(1)(A) of OBRA, is amended—

(i) by striking "implanted" and inserting "inserted", and

(ii) by inserting "or subsequent to" after "during".

(B) Subclause (IV) of section 1842(j)(1)(D)(ii) of the Social Security Act, as inserted by section 4063(a)(2)(A) of OBRA, is redesignated as subclause (V) and is amended by striking "is".

(C) Section 4063(a)(2)(B) of OBRA is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(D) Section 1833(i)(2)(A)(iii) of the Social Security Act, as inserted by section 4063(b)(3) of OBRA, is amended—

(i) by striking "implantation" and inserting "insertion", and

(ii) by inserting "or subsequent to" after "during".

(E) Section 4063 of OBRA is amended by adding at the end the following new subsection:

"(e) PREVENTION OF ADDITIONAL BILLINGS FOR IOLS.—

"(1) Section 1833(i) of the Social Security Act (42 U.S.C. 1395l(i)) is amended by adding at the end the following new paragraph:

" '(6) Any person, other than a facility having an agreement under section 1832(a)(2)(F)(i), who knowingly and willful-

ly presents, or causes to be presented, a bill or request for payment, for an intraocular lens inserted during or subsequent to cataract surgery for which payment may be made under paragraph (2)(A)(iii), is subject to a civil money penalty of not to exceed $2,000. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).'.

"(2) Section 1832(a)(2)(F)(i) of such Act (42 U.S.C. 1395k(a)(2)(F)(i)) is amended by inserting '(including intraocular lens in cases described in section 1833(i)(2)(A)(iii))' after 'services' each place it appears.".

(3) SECTION 4064.—(A) Section 4064(a) of OBRA is amended by striking all that follows the first dash and inserting the following: "Paragraph (2) of section 1833(h) of the Social Security Act (42 U.S.C. 1395l(h)) is amended—

"(1) by inserting '(A)(i)' after '(2)';

"(2) in the second sentence—

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

"(B) by designating such sentence as subparagraph (B); and

"(3) by adding at the end of subparagraph (A)(i), as designated under paragraph (1), the following new clause:

"(ii) Notwithstanding any other provision of this subsection—

"(I) any change in the fee schedules which would have become effective under this subsection for tests furnished on or after January 1, 1988, shall not be effective for tests furnished during the 3-month period beginning on January 1, 1988, and

"(II) the Secretary shall not adjust the fee schedules under clause (i) to take into account any increase in the consumer price index for 1988.".

(B) Section 4064(b)(1) of OBRA is amended—

(i) by striking "1833(h)(2) of the Social Security Act (42 U.S.C. 1395l(h)(2))" and inserting "1833(h)(2)(A) of the Social Security Act (42 U.S.C. 1395l(h)(2)(A)), as amended by subsection (a),";

(ii) by striking "the following: 'In establishing fee schedules under the first sentence of this paragraph with respect to" and inserting "the following new clause:

" '(iii) In establishing fee schedules under clause (i) with respect to"; and

(iii) by moving the indentation of all the matter added following "with respect to" 2 ems to the left.

(C) The clause added by section 4064(b)(1) of OBRA, as amended by subparagraph (A), is amended by inserting before the period at the end the following: ", and such reduced fee schedules shall serve as the base for 1989 and subsequent years".

(D) Section 1833(h)(4)(B)(ii) of the Social Security Act, as amended by section 4064(b)(2)(B) of OBRA, is amended by inserting "after" before "March".

(E) Section 4064(c) of OBRA is amended by striking all that follows the dash and inserting the following: "Section 1833(h)(1)(D) of such Act is amended by inserting ', in a sole community hospital (as defined in the last sentence of section 1886(d)(5)(C)(ii)),' after 'a hospital laboratory'.".

(F) Section 4064(c) of OBRA is amended by inserting "(1)" after the dash and by adding at the end the following new paragraph:

"(2) The amendment made by paragraph (1) shall apply with respect to diagnostic laboratory tests furnished on or after April 1, 1988.".

(G) Section 1846 of the Social Security Act, as added by section 4064(d)(1) of OBRA, is amended—

(i) in subsection (a)—

(I) by striking "certified" and "certification" and inserting "approved" and "approval", respectively,

(II) by inserting "or for coverage" after "conditions of participation", and

(III) by striking "cancelling immediately the certification of the provider or clinical laboratory" and inserting "terminating immediately the provider agreement or cancelling immediately approval of the clinical laboratory";

(ii) in subsections (b)(1)(A) and (b)(2)(A)(iv), by striking "certified";

(iii) in subsection (b)(2)(A)(ii), by striking "civil fines and penalties" and inserting "civil money penalties in an amount not to exceed $10,000 for each day of substantial noncompliance";

(iv) in subsection (b)(2)(A), by adding at the end the following new sentence:

"The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (ii) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).";

(v) in subsection (b)(2)(A)(iii), by striking "certification";

(vi) in subsection (b)(2)(A)(iv), by striking "provided on or after the date in" and inserting "furnished on or after the date on"; and

(vii) in subsection (b)(3), by striking "fines" and inserting "penalties" each place it appears.

(H) The matter inserted in section 1861(s) of the Social Security Act by section 4064(e)(1) of OBRA is amended by inserting a comma after "year".

(4) SECTION 4066.—(A) The heading of section 4066 of OBRA is amended by inserting "AND OTHER DIAGNOSTIC TESTS" after "RADIOLOGY".

(B) The item relating to section 4066 in the table of contents of title IV of OBRA is amended to read as follows:

"Sec. 4066. Payments to hospital outpatient departments for radiology and other diagnostic tests.".

(C) Section 1833(n) of the Social Security Act, as added by section 4066(a)(2) of OBRA, is amended—

(i) in paragraph (1)(A), by striking "beginning on or after October 1, 1988, under this part for services described in subsection (a)(2)(E)" and inserting "for services described in subsection (a)(2)(E)(i) furnished under this part on or after October 1, 1988, and for services described in subsection (a)(2)(E)(ii) furnished under this part on or after October 1, 1989,";

(ii) in paragraph (1)(B)(i)(II), by inserting "or (for services described in subsection (a)(2)(E)(i) furnished on or after January 1, 1989) the fee schedule amount established" after "the prevailing charge"; and

(iii) by amending subclauses (I) and (II) of paragraph (1)(B)(ii) to read as follows:

"(I) The term 'cost proportion' means 50 percent, except that such term means 65 percent in the case of outpatient radiology services for portions of cost reporting periods which occur in fiscal year 1989 and in the case of diagnostic procedures described in subsection (a)(2)(E)(ii) for portions of cost reporting periods which occur in fiscal year 1990.

"(II) The term 'charge proportion' means 100 percent minus the cost proportion.".

(5) SECTION 4067.—Section 1833(f) of the Social Security Act, as inserted by section 4067(a) of OBRA, is amended by striking "medicare economic index (referred to in the fourth sentence of section 1842(b)(3)) applicable to physicians' services" and inserting "MEI (as defined in section 1842(i)(3)) applicable to primary care services (as defined in section 1842(i)(4))".

(6) SECTION 4068.—The last sentence of section 1135(d)(3) of the Social Security Act, as added by section 4068(b)(1) of OBRA, is amended by striking "speciality" and inserting "specialty".

(h) CORRECTIONS RELATING TO SUBPART B OF PART 3 OF SUBTITLE A OF TITLE IV (PART B ELIGIBILITY AND BENEFITS CHANGES).—

(1) SECTION 4070.—(A) The last sentence of section 1833(c) of the Social Security Act, as added by section 4070(a)(2) of OBRA, is amended by striking "prescribing or monitoring prescription drugs" and inserting "monitoring or changing drug prescriptions".

(B) Section 1861(ff) of the Social Security Act, as added by section 4070(b)(2) of OBRA, is amended—

(i) by inserting before such subsection the following heading:

"Partial Hospitalization Services", and

(ii) in paragraph (3), by striking "hospital-based or hospital-affiliated (as defined by the Secretary)" and inserting "furnished by a hospital to its outpatients".

(2) SECTION 4071.—Section 1861(s)(10)(A) of the Social Security Act, as amended by section 4071(a) of OBRA, is amended by inserting ", subject to section 4071(b) of the Omnibus Budget Reconciliation Act of 1987," before "influenza vaccine".

(3) SECTION 4072.—(A) Section 1861(s)(12) of the Social Security Act, as amended by section 4072(a) of OBRA, is amended by inserting "subject to section 4072(e) of the Omnibus Budget Reconciliation Act of 1987," after "(12)".

(B) Section 4072(b) of OBRA is amended—

(i) by striking "by inserting after subsection (e)" and inserting "by adding at the end, as previously amended,", and

(ii) by redesignating the subsection added by such section as subsection (o).

(4) SECTION 4073.—Section 4073 of OBRA is amended—

(A) by striking paragraph (1) of subsection (b);

(B) in paragraph (2) of subsection (b)—

(i) by redesignating such paragraph as paragraph (1);

(ii) by inserting "and" at the end of subparagraph (A);

(iii) by striking subparagraph (B);

(iv) in the matter added by subparagraph (C)—

(I) by striking "and (I)" and inserting "(K)",

(II) by inserting "80 percent of the lesser of the actual charge for the services or" after "amounts paid shall be",

(III) by striking "but in no event more than" and inserting "but in no event shall such fee schedule exceed", and

(IV) by striking the semicolon and inserting a comma; and

(v) by redesignating subparagraph (C) as subparagraph (B);

(C) in paragraph (3) of subsection (b)—

(i) by inserting ", as previously amended," after "at the end",

(ii) by redesignating such paragraph as paragraph (2),

(iii) by redesignating the subsection added by such paragraph as subsection (p), and

(iv) by adding at the end of the subsection added by such paragraph the following: "Except for deductible and coinsurance amounts applicable under section 1833, whoever knowingly and willfully presents, or causes to be presented, to an individual enrolled under this part a bill or request for payment for services described in the previous sentence, is subject to a civil money penalty of not to exceed $2,000 for each such bill or request. 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).";

(D) in the subsection added by subsection (c)—

(i) by redesignating such subsection as subsection (gg), and

(ii) in paragraph (1), by striking "his" and inserting "the nurse-midwife's" and by striking "physician's" and inserting "physicians' "; and

(E) in the matter inserted by subsection (d)(1), by striking "section 1861(ff)" and inserting "section 1861(gg)".

(5) SECTION 4074.—Section 4074 of OBRA is amended—

(A) in the matter inserted by subsection (a)(1), by striking "(ff)" and inserting "(hh)", and

(B) by redesignating the subsection added by subsection (b) as subsection (hh).

(6) SECTION 4076.—Subsection (a) of section 4076 of OBRA is amended to read as follows:

"(a) SERVICES COVERED.—Section 1861(s)(2)(K) of the Social Security Act (42 U.S.C. 1395x(s)(2)(K)) is amended by inserting '(I)' before 'in a hospital' and by striking 'or as an assistant at surgery' and inserting ', (II) as an assistant at surgery, or (III) in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area,'.".

(7) SECTION 4077.—Section 4077(b) of OBRA is amended—

(A) in paragraph (1), by inserting "by section 4073(a) of this title" after "as amended";

(B) by striking paragraph (2);

(C) in paragraph (3)—

(i) by striking "1395k(a)(1))" and inserting "1395l(a)(1)),

(ii) by striking subparagraphs (A) and (B),

(iii) in subparagraph (C), by striking "(I)" and inserting "(K)" and by redesignating such subparagraph as subparagraph (A),

(iv) in subparagraph (D), by striking "subparagraph:" and inserting "clause:" and by redesignating such subparagraph as subparagraph (B), and

(v) in the matter added by subparagraph (B), as so redesignated—

(I) by striking "(J)" and inserting "(L)", and

(II) by inserting "80 percent of the lesser of the actual charge for the services or" after "amounts paid shall be";

(D) in paragraph (4), by striking "section 4073(b)(3)" and inserting "4073(b)(2)";

(E) in paragraph (5), by redesignating the subsection (gg) added by such paragraph as subsection (ii); and

(F) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively.

(8) SECTION 4079.—Section 4079(c)(1) of OBRA is amended by striking "subsection (d)" and inserting "subsection (e)".

(i) PROVISIONS RELATING TO SUBPART D OF PART 3 OF SUBTITLE A OF TITLE IV (OTHER PART B PROVISIONS).—

(1) SECTION 4081.—(A) Section 1842(h)(3)(B) of the Social Security Act, as added by section 4081(a) of OBRA, is amended—

(i) in the second sentence—

(I) by striking "claims" and inserting "payment", and

(II) by striking "including such information as the Secretary determines is generally provided" and inserting "shall include an explanation of benefits and any additional information that the Secretary may determine to be appropriate in order";

(ii) in the third sentence, by striking "arrangements" and inserting "agreements"; and

(iii) in the fourth sentence—

(I) by inserting "by a carrier" after "under this subparagraph", and

(II) by inserting before the period at the end the following: ", and such user fees shall be collected and retained by the carrier".

(B) Section 4081(b)(2) of OBRA is amended by redesignating subparagraphs (A) through (C) as subparagraphs (B) through (D), respectively, and by inserting before subparagraph (B), as so redesignated, the following:

"(A) in the matter before paragraph (1), by inserting '(or, with respect to paragraph (3), the issuer of the policy)' after 'he finds that such policy',".

(C) Section 1882(c)(3) of the Social Security Act, as inserted by section 4081(b)(2)(C) of OBRA, is amended—

(i) in subparagraph (A), by striking "claims form" each place it appears and inserting "claim form" in the first 2 places and "notice" in the third place,

(ii) in subparagraph (B)(i), by inserting "under the policy" after "payment determination", and

(iii) in subparagraph (B)(ii), by striking "appropriate payment" and inserting "payment covered by such policy".

(D) Section 4081(c)(2)(B)(i) of OBRA is amended by striking "medical" and inserting "medicare".

(E) Section 4081(c)(2)(B)(ii) of OBRA is amended by inserting "or which has not enacted such legislation before July 1, 1988," after "in which such legislation may be considered".

(2) SECTION 4082.—Section 4082(c) of OBRA is amended—

(A) by striking "1842(b)(5) of such Act (42 U.S.C. 1395u(b)(5)" and inserting "1842(b)(2) of such Act (42 U.S.C. 1395u(b)(2))", and

(B) in paragraph (1), by striking "(5)" and inserting "(2)".

(3) SECTION 4084.—Section 4084 of OBRA is amended by adding at the end the following new subsection:

"(c) ADDITIONAL TECHNICAL CORRECTIONS.—

"(1) Section 1861(bb)(2) of the Social Security Act (42 U.S.C. 1395x(bb)(2)) is amended by adding at the end the following: 'Such term also includes, as prescribed by the Secretary, an anesthesiologist assistant.'.

"(2) Section 1833(a)(1)(H) of such Act (42 U.S.C. 1395l(a)(1)(H)) is amended by striking 'lesser of the actual charge' and inserting 'least of the actual charge, the prevailing charge that would be recognized if the services had been performed by an anesthesiologist,'.

"(3) The amendments made by this subsection shall apply to services furnished after December 31, 1988.".

(4) SECTION 4085.—(A) Section 1845(f) of the Social Security Act, as added by section 4085(a) of OBRA, is amended—

(i) in paragraph (1), by striking "October 1st" and inserting "December 31st", and

(ii) in paragraph (2), by striking "July 1st of the following year" and inserting "the later of (A) July 1st of the following year, or (B) 45 days after the date of a reasonable charge update".

(B) Subparagraph (D) of section 1833(h)(5) of the Social Security Act, as added by section 4085(b)(1) of OBRA, is amended—

(i) by striking "If a person" and all that follows through "under subparagraph (C)" and inserting the following: "A person may not bill for a clinical diagnostic laboratory test performed by a laboratory, other than a rural health clinic, other than on an assignment-related basis. If a person knowingly and willfully and on a repeated basis bills for a clinical diagnostic laboratory test in violation of the previous sentence", and

(ii) by striking "section 1842(j)(2)" and inserting "paragraphs (2) and (3) of section 1842(j) in the same manner such paragraphs apply with respect to a physician".

(C) Section 4085(i) of OBRA is amended—

(i) in the matter inserted by paragraph (1)(A), by inserting a comma after "assignment-related basis";

(ii) in paragraph (1), by striking subparagraph (B);

(iii) in paragraph (11), by striking "9367(a)" and inserting "4072(a)";

(iv) in paragraph (21)(D)(i), by inserting "by" after "(i)";

(v) in paragraph (21)(D)(ii), by striking "and by" and all that follows up to the semicolon; and

(vi) by adding at the end the following:

"(22)(A) Section 1832(a)(2)(F)(ii) of the Social Security Act (42 U.S.C. 1395k(a)(2)(F)(ii)) is amended by striking 'an assignment described in section 1842(b)(3)(B)(ii)' and inserting 'payment on an assignment-related basis'.

"(B) Section 1833(h)(5) of such Act (42 U.S.C. 1395l(h)(5)) is amended, in each of subparagraphs (A) and (C), by striking 'on the basis of an assignment' and all that follows through '1870(f)(1),' and inserting 'on an assignment-related basis'.

"(C) Section 1842(b)(7)(B)(iii) of such Act (42 U.S.C. 1395u(b)(7)(B)(ii)) is amended by striking 'the basis of' and all that follows through '1870(f)(1)' and inserting 'an assignment-related basis'.

"(23) Section 1833(l)(5)(B)(ii) of such Act (42 U.S.C. 1395k(l)(5)(B)(ii)) is amended—

"(A) in the first sentence by striking 'monetary' and inserting 'money', and

"(B) by amending the second sentence to read as follows: '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).'.

"(24) The fourth sentence of section 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)) is amended by striking 'physician services' and 'physicians services' and inserting 'physicians' services' in both places.

"(25) Section 1842(b)(12)(C) of such Act (42 U.S.C. 1395u(b)(12)(C)) is amended—

"(A) in the first sentence by striking 'monetary' and inserting 'money', and

"(B) by amending the second sentence to read as follows: '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).'.".

"(26) Section 1842(j)(2) of such Act (42 U.S.C. 1395u(j)(2)(B)) is amended—

"(A) by striking 'title' each place it appears and inserting 'Act', and

"(B) in subparagraph (B)—

"(i) by striking 'the imposition of',

"(ii) by inserting 'and assessments' after 'such penalties', and

"(iii) by amending the second sentence to read as follows: 'The provisions of section 1128A (other than the first 2 sentences of subsection (a) and other than subsection (b)) shall apply to a civil money penalty and assessment under subparagraph (B) in the same manner as such provisions apply to a penalty, assessment, or proceeding under section 1128A(a), except to the extent such provisions are inconsistent with subparagraph (A) or paragraph (3).'.".

"(27) Section 1842(l)(1)(C)(i) of such Act (42 U.S.C. 1395u(l)(1)(C)(i)) is amended by inserting 'the physician establishes that' after '(i)'.

"(28) Section 1866(g) of such Act (42 U.S.C. 1395cc(g)) is amended—

"(A) in the first sentence by striking 'monetary' and inserting 'money', and

"(B) by amending the second sentence to read as follows: '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).'.".

(D)(i) Section 1862(e) of the Social Security Act (42 U.S.C. 1395y(e)) is amended—

(I) by striking "or section 1128A" and inserting ", 1128A, 1156, 1842(j)(2), or 1867(d)",

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

(III) by inserting "(1)" after "(e)".

(ii) Section 1890 of the Social Security Act, as added by section 10 of Public Law 100-93, is amended—

(I) by striking its heading;

(II) by striking "SEC. 1890" and inserting "(2)";

(III) by inserting "1842(j)(2)," before "1862(d),";

(IV) by striking "or 1866" and inserting "1866, or 1867(d)"; and

(V) by transferring and adding such provision at the end of section 1862(e) of such Act.

(j) CORRECTIONS TO PART 4 OF SUBTITLE A OF TITLE IV (RELATING TO PEER REVIEW ORGANIZATIONS).—

(1) SECTION 4091.—Section 4091(a)(1)(B) of OBRA is amended by striking "renewals occurring" and inserting "contracts expiring".

(2) SECTION 4093.—Section 1154(a)(3) of the Social Security Act, as amended by section 4093(a) of OBRA, is amended by amending the last sentence to read as follows:

"(C) The discussion and review conducted under subparagraph (B)(ii) shall not affect the rights of a practitioner or provider to a formal reconsideration of a determination under this part (as provided under section 1155).".

(3) SECTION 4094.—(A) Section 4094(a) of OBRA is amended by striking "subparagraph (B)" and inserting "subparagraph (A)".

(B) Section 1154(a)(15) of the Social Security Act, as added by section 4094(b) of OBRA, is amended by striking "at at" and inserting "in at".

(4) SECTION 4096.—(A) Section 4096(a)(1)(A) of OBRA is amended by striking "(b)(3)(ii)" and inserting "(b)(3)(B)(ii)".

(B) Section 1870(f) of the Social Security Act, as amended by section 4096(a)(2) of OBRA, is amended by striking "specified in subclauses (I) and (II) of" and inserting "of assignment specified in".

(C) Sections 1154(e)(3)(A)(i) and 1154(e)(3)(B) (42 U.S.C. 1320c-3(e)(3)(A)(i), 1320c-3(e)(2)(B)), as amended by section 4096(c) of OBRA, are each amended by striking "or (2)" before "paragraph (2)".

(5) SECTION 4097.—Section 4097(b) of OBRA is amended by striking "1866(a)(4)(C)(ii) of such Act (42 U.S.C. 1395cc(a)(4)(C)(ii))" and inserting "1866(a)(3)(C)(ii) of such Act (42 U.S.C. 1395cc(a)(3)(C)(ii))".

(k) CORRECTIONS TO SUBTITLE B OF TITLE IV (RELATING TO MEDICAID).—

(1) TABLE OF CONTENTS.—The table of contents of title IV of OBRA is amended by striking the item relating to section 4105 and by redesignating the items relating to sections 4106 and 4107 as relating to sections 4105 and 4106, respectively.

(2) SECTION 4101.—Section 1916(c)(1) of the Social Security Act, as inserted by section 4101(d)(1)(C) of OBRA, is amended by striking "nonfarm".

(3) SECTION 4102.—(A) Section 1915(d)(5)(B) of the Social Security Act, as amended by section 4102(a)(1)(B) of OBRA, is amended—

(i) in clause (iii)(III), by striking "75" and inserting "65", and

(ii) by inserting before "Effective on" the following: "The Secretary shall develop (by not later than October 1, 1989) a method for projecting, on a State-specific basis, the percentage increase in the number of residents in each State who are over 75 years of age for any period.".

(B) Section 1915(d)(5)(C)(i) of the Social Security Act, as amended by section 4102(a)(1)(B) of OBRA, is amended—

(i) by striking "(4)(B)," and inserting "(4), and", and

(ii) by striking ", and services furnished" and all that follows through "subsection (c)".

(4) SECTION 4103.—Section 1905(a)(5)(B) of the Social Security Act, as inserted by section 4103(a) of OBRA, is amended by striking "subparagraph" and inserting "clause".

(5) SECTION 4104.—(A) Paragraph (1) of section 4104(1) of OBRA is amended to read as follows:

"(1) by striking ', or' at the end of subclause (IX) and inserting a semicolon and by inserting 'or' at the end of subclause (X); and".

(B) Section 1902(a)(10)(A)(ii)(XI) of the Social Security Act, as added by section 4104(2) of OBRA, is amended—

(i) by striking "are more restrictive" and inserting "may be more restrictive", and

(ii) by striking the period at the end and inserting a semicolon.

(6) SECTION 4112.—(A) Section 4112 of OBRA is amended—

(i) in subsection (a)(2)(A)—

(I) by striking "such date" and inserting "April 1, 1989", and

(II) by inserting ", effective for inpatient hospital services provided on or after July 1, 1989" before the period;

(ii) in subsection (a)(2)(B)—

(I) by striking "such date" and inserting "April 1, 1990", and

(II) by inserting ", effective for inpatient hospital services provided on or after July 1, 1990" before the period;

(iii) the undesignated paragraph at the end of subsection (a) is amended—

(I) by striking "June 30 of each year in which the State is required to submit" and inserting "90 days after the date a State submits",

(II) by indenting all of such paragraph 2 ems, and

(III) by designating the first two sentences thereof as paragraph (3) and the last sentence thereof as paragraph (4);

(iv) in subsection (b)(2), by striking "the State plan" and inserting "a State plan";

(v) in subsection (b)(3)(B)(i), by inserting ", less the portion of any cash subsidies described in clause (i)(II) in the period reasonably attributable to inpatient hospital services" after "charity care in a period";

(vi) in subsection (c)—

(I) by striking "paragraphs (2)(A) and (2)(B)" and inserting "paragraphs (1)(B) and (2)(A) of subsection (a)",

(II) by striking "paragraph (2)(A)" and "paragraph (2)(B)" and inserting "such paragraph (1)(B)" and "such paragraph (2)(A)", respectively,

(III) in paragraph (1), by inserting "at least" after "equal to",

(IV) in paragraph (2), by inserting "(without regard to the election made by a State under subsection (b)(1))" after "payment) and",

(V) in the matter after paragraph (2), by inserting "at least" before "one-third" and before "two-thirds", and

(VI) by adding at the end the following new sentences: "In the case of a hospital described in subsection (d)(2)(A)(i) (relating to children's hospitals), in computing the hospital's disproportionate share adjustment percentage for purposes of paragraph (1)(B) of this subsection, the disproportionate patient percentage (defined in section 1886(d)(5)(F)(vi)) shall be computed by substituting for the fraction described in subclause (I) of such section the fraction described in subclause (II) of that section. If a State elects in a State plan amendment under subsection (a) to provide the payment adjustment described in paragraph (2), the State must include in the amendment a detailed description of the specific methodology to be used in determining the specified additional payment amount (or increased percentage payment) to be made to each hospital qualifying for such a payment adjustment and must publish at least annually the name of each hospital qualifying for such a payment adjustment and the amount of such payment adjustment made for each such hospital."; and

(vii) in subsection (e)—

(I) by inserting "(1)" after "SPECIAL RULE.—",

(II) by inserting "based on a pooling arrangement involving a majority of the hospitals participating under the plan" after "payment adjustments", and

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

"(2) In the case of a State that used a health insuring organization before January 1, 1986, to administer a portion of its plan on a State-wide basis, during the 3-year period beginning on July 1, 1988—

"(A) the requirements of subsections (b) and (c) shall not apply if the aggregate amount of the payment adjustments under the plan for disproportionate share hospitals (as defined under the State plan) is not less than the aggregate amount of payment adjustments otherwise required to be made if such subsections applied, and

"(B) subsection (d)(2)(B) shall apply to hospitals located in urban areas, as well as in rural areas.".

(B) Section 4112 of OBRA is further amended—

(i) by striking "(a) IMPLEMENTATION OF REQUIREMENT.—" and inserting the following:

"(a) IN GENERAL.—Title XIX of the Social Security Act is amended—

"(1) by redesignating section 1923 as section 1924, and

"(2) by inserting after section 1922 the following new section:

" 'ADJUSTMENT IN PAYMENT FOR INPATIENT HOSPITAL SERVICES FURNISHED BY DISPROPORTIONATE SHARE HOSPITALS

" 'SEC. 1923. (a) IMPLEMENTATION OF REQUIREMENT.—' ";

(ii) in subsection (a)(1), by striking "A State's plan under title XIX of the Social Security Act" and inserting "A State plan under this title";

(iii) in subsection (a)(1), by striking "of such Act";

(iv) in subsection (a), by striking "of Health and Human Services" each place it appears;

(v) in the matter following paragraph (2)(B) of subsection (a), by striking "of the Social Security Act";

(vi) in subsections (b) and (c), by striking "under title XIX of the Social Security Act" each place it appears and inserting "under this title";

(vii) in subsection (d)(2)(B), by striking "of the Social Security Act";

(viii) in subsections (b)(2), (b)(3), and (d)(2)(B), by striking double quotation marks enclosing terms and inserting single quotation marks;

(ix) by placing opening double quotation marks at the beginning of any matter with an initial paragraph indentation (beginning with subsection (a)(1)) and closing double quotation marks at the end of subsection (e); and

(x) by adding at the end the following:

"(b) CONFORMING AMENDMENT.—Section 1903(i)(3) of such Act (42 U.S.C. 1396b(i)(3)) is amended by inserting '(other than amounts attributable to the special situation of a hospital which serves a disproportionate number of low income patients with special needs)' before 'to the extent'.".

(7) SECTION 4113.—Section 4113 of OBRA is amended—

(A) in the matter inserted by subsection (a)(1)(B)—

(i) by moving the left margin of the matter 2 ems to the left, and

(ii) by striking "subparagraph (G)" and inserting "subparagraph (E) or (G)";

(B) in the matter inserted by subsection (a)(2), by striking "paragraph (2)(G) or (6)" and inserting "paragraph (2)(B)(iii), (2)(E), (2)(G), or (6)";

(C) in subsection (b)(2)(ii), by striking "such"; and

(D) by striking subsection (d) and redesignating subsection (e) as subsection (d).

(8) SECTION 4114.—(A) Section 4114 of OBRA is amended in paragraph (1), by striking " '(1)' " and inserting " '(o)(1)' ".

(B) Section 1905(o)(1)(B) of the Social Security Act, as added by section 4114(3) of OBRA, is amended—

(i) by striking "only", and

(ii) by striking "immunodeficiency syndrome" and inserting "immune deficiency syndrome (AIDS)".

(9) SECTION 4115.—(A) SECTION 4115 OF OBRA IS AMENDED—

(A) in subsection (b)(4)(B), by striking "program" and inserting "Program",

(B) in subsection (c)—

(i) by inserting "under section 9121 of this Act" after "Upon approval", and

(ii) by striking "1916, and 1924" and inserting "1902(e)(1), and 1916", and

(C) by adding at the end the following:

"(d) EXTENSION OF TEXAS STATE WAIVER.—Section 9523(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking 'January 1, 1989' and inserting 'January 1, 1990'.".

(10) SECTION 4118.—(A) SECTION 1915(C)(10) OF THE SOCIAL SECURITY ACT, AS ADDED BY SECTION 4118(B) OF OBRA, IS AMENDED—

(i) by striking "No waiver under this subsection shall limit by an amount less than 200" and inserting "The Secretary shall not limit to fewer than 200", and

(ii) by striking "under such waiver" and inserting "under a waiver under this subsection".

(B) Section 4118(e) of OBRA is amended—

(i) in paragraph (3), by striking "amendment" and inserting "amendments", and

(ii) in paragraph (1)—

(I) by inserting "(A)" after "(1)",

(II) by striking "1128A(a)(1)" and "1320a-7(a)(1))" and inserting "1128(a)" and "1320a-7(a))", respectively, and

(III) by adding at the end the following:

"(B) Section 1128A of such Act is amended by adding at the end the following new subsection:

" '(l) A principal is liable under this section for the actions of the principal's agent acting within the scope of the agency.'.".

(C) Section 1128(d)(3)(B)(ii) of the Social Security Act, as added by section 4118(e)(2)(B) of OBRA, is amended by striking "under a program".

(D) Section 4118(e) of OBRA is amended by redesignating paragraph (3) as paragraph (14) and by inserting after paragraph (2) the following new paragraphs:

"(3) Section 1128(b)(8)(A)(i) of such Act is amended by inserting after '(A)(i)' the following: 'who has a direct or indirect ownership or control interest of 5 percent or more in the entity or'.

"(4) Section 1128(d) of such Act is amended—

"(A) in paragraph (1), by striking 'subsection (b)' and inserting 'this section and section 1128A', and

"(B) in paragraph (3)(A), by striking 'under a program'.'

"(5) Section 1128(i) of such Act is amended—

"(A) in the matter before paragraph (1), by striking 'a physician or other individual' and inserting 'an individual or entity',

"(B) in paragraphs (1) through (4), by striking 'physician or other individual' each place it appears and inserting 'individual or entity', and

"(C) in paragraph (4), by striking 'first offender or other program' and inserting 'first offender, deferred adjudication, or other arrangement or program'.

"(6) Section 1128A(a)(1)(D) of such Act is amended—

"(A) by striking 'excluded under' and inserting 'excluded from', and

"(B) by inserting 'or as a result of the application of the provisions of section 1842(j)(2) or section 1867(d)(2)' after 'or 1866(b)'.

"(7) The second sentence of section 1128A(c)(1) of such Act is amended—

"(A) by inserting ', request for payment, or other occurrence described in this section' after 'any claim', and

"(B) by inserting ', the request for payment was made, or the occurrence took place' after 'claim was presented'.

"(8) Section 1128A(i) of such Act is amended, in the matter before paragraph (1), by striking 'subsection' and inserting 'section'.

"(9) Section 1128A(i)(1) of such Act is amended by inserting 'or title XX' after 'title V'.

"(10) Section 1128A of such Act is further amended—

"(A) in the matter in subsection (a) before paragraph (1), by inserting ', but excluding a beneficiary, as defined in subsection (i)(5)' after 'other entity';

"(B) in subsection (i)(2), by striking 'submitted by' and all that follows through the end and inserting 'for payments for items and services under title V, XVIII, XIX, or XX of this Act.', and

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

" '(5) The term "beneficiary" means an individual who is eligible to receive items or services for which payment may be made under title V, XVIII, XIX, or XX but does not include a provider, supplier, or practitioner.'.

"(11) Section 1903(i)(2) of such Act (42 U.S.C. 1396b(i)(2)) is amended—

"(A) in subparagraph (A), by striking 'in the State plan under this title pursuant to section 1128 or section 1128A' and inserting 'under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, 1842(j)(2), or 1867(d)(2)', and

"(B) in subparagraph (B), by striking 'pursuant to section 1128 or section 1128A from participation in the program under this title' and inserting 'from participation under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, 1842(j)(2), or 1867(d)(2)'.

"(12) Section 504(b)(6) of such Act (42 U.S.C. 704(b)(6)) is amended by striking 'pursuant to section 1128 or section 1128A from participation in the program under this title' each place it appears and inserting 'under this title or title XVIII, XIX, or XX pursuant to section 1128, 1128A, 1156, 1842(j)(2), or 1867(d)(2)'.

"(13) Section 2005(a)(9) of such Act (42 U.S.C. 1397d(a)(9)) is amended by striking 'pursuant to section 1128 or section 1128A from participation in the program under this title' each place it appears and inserting 'under this title or title V, XVIII, or XIX pursuant to section 1128, 1128A, 1156, 1842(j)(2), or 1867(d)(2)'.".

(E) Section 4118(f)(1) of OBRA is amended by striking "4111(g)(8)" and inserting "4211(h)(8)".

(F) Section 4118(g)(1)(B) of OBRA is amended by striking "insert" and inserting "inserting".

(G) Section 4118(h) of OBRA is amended—

(i) by inserting a dash after "EXPENSES.";

(ii) in paragraph (1), by striking "Section 1902(a)(17) of the Social Security Act (42 U.S.C. 1396a(a)(17)) is amended" and inserting "Sections 1902(a)(17) and 1903(f)(2) of the Social Security Act (42 U.S.C. 1396a(a)(17), 1396b(f)(2)) are each amended";

(iii) in paragraph (2), by striking "(2) The amendment made by paragraph (1)" and inserting "(3) The amendments made by this subsection", and

(iv) by inserting after paragraph (1) the following new paragraph:

"(2) The first sentence of section 1902(f) of such Act (42 U.S.C. 1396a(f)) is amended by inserting after 'as recognized under State law' the following: 'regardless of whether such expenses are reimbursed under another public program of the State or political subdivision thereof'.".

(H) Section 1915(c)(7)(B) of the Social Security Act, as added by section 4118(k) of OBRA, is amended by inserting before the period at the end the following: ", without regard to the availability of beds for such inpatients".

(I) Section 4118(l)(1) of OBRA is amended by inserting ", as redesignated by section 4102(a)," after "1396n(h))".

(J) Section 9414(b)(3) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4118(o)(1)(C) of OBRA, is amended by striking "nonfarm".

(K) Section 4118(o)(2)(A) of OBRA is amended by inserting "each place it appears" before "and inserting".

(L) Section 4118(p)(9) of OBRA is amended by striking "1925(a)" and "(4111(a))" and inserting "1923(a)" and "4211(a)", respectively.

(M) Section 4118(p) of OBRA is amended by adding at the end the following new paragraph:

"(11) Paragraph (5) of section 9432(c) of the Omnibus Budget Reconciliation Act of 1986 is amended to read as follows:

" '(5) The Secretary shall submit an interim report on the results of the study, including an analysis of the geographic variations under paragraph (2), to the Congress not later than January 1, 1990, and shall report the final results of the study to the Congress not later than January 1, 1992.'.".

(11) OMITTED SECTION.—(A) Part 2 of subtitle B of title IV of OBRA is amended by adding at the end the following new section:

"SEC. 4119. STUDY OF MEANS OF RECOVERING COSTS OF NURSING FACILITY SERVICES FROM ESTATES OF BENEFICIARIES.

"The Secretary of Health and Human Services shall study the means of recovering amounts from estates of deceased medicaid beneficiaries (or the estates of the spouses of such deceased beneficiaries) to pay for the medical assistance for skilled nursing facility or intermediate care facility services furnished, under title XIX of the Social Security Act, to such medicaid beneficiaries. The Secretary shall report to Congress, not later than December 31, 1988, on such means, and include appropriate recommendations for changes in legislation.".

(B) The table of contents of title IV of OBRA is amended by inserting after the item relating to section 4118 the following new item:

"Sec. 4119. Study of means of recovering costs of nursing facility services from estates of beneficiaries.".

(12) MEDICAID CONFORMING AMENDMENT TO SECTION 4014 OF OBRA.—(A) Paragraph (5) of section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is amended to read as follows:

"(5)(A) If the Secretary determines that an entity with a contract under this subsection—

"(i) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(ii) imposes premiums on individuals enrolled under this subsection in excess of the premiums permitted under this title;

"(iii) acts to discriminate among individuals in violation of the provision of paragraph (2)(A)(v), including expulsion or refusal to re-enroll an individual or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this subsection) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services; or

"(iv) misrepresents or falsifies information that is furnished—

"(I) to the Secretary or the State under this subsection, or

"(II) to an individual or to any other entity under this subsection,

the Secretary may provide, in addition to any other remedies available under law, for any of the remedies described in subparagraph (B).

"(B) The remedies described in this subparagraph are—

"(i) civil money penalties of not more than $25,000 for each determination under subparagraph (A), or, with respect to a determination under clause (iii) or (iv)(I) of such subparagraph, of not more than $100,000 for each such determination, plus, with respect to a determination under subparagraph (A)(ii), double the excess amount charged in violation of such subparagraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under subparagraph (A)(iii), $15,000 for each individual not enrolled as a result of a practice described in such subparagraph, or

"(ii) denial of payment to the State for medical assistance furnished under the contract under this subsection for individuals enrolled after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(B) The amendment made by subparagraph (A) shall apply to actions occurring on or after the date of the enactment of this Act.

(13) TREATMENT OF EDUCATIONALLY-RELATED SERVICES.—(A) Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by inserting after subsection (b) the following new subsection:

"(c) Nothing in this title shall be construed as prohibiting or restricting, or authorizing the Secretary to prohibit or restrict, payment under subsection (a) for medical assistance for covered services furnished to a handicapped child because such services are included in the child's individualized education program established pursuant to part B of the Education of the Handicapped Act or furnished to a handicapped infant or toddler because such services are included in the child's individualized family service plan adopted pursuant to part H of such Act.".

(B) The amendment made by subparagraph (A) shall take effect on the date of the enactment of this Act.

(14) CLARIFICATION OF TERM "INSTITUTION FOR MENTAL DISEASES".—(A) Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by inserting after subsection (h) the following new subsection:

"(i) The term 'institution for mental diseases' means a hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services.".

(B) The amendment made by subparagraph (A) shall take effect on the date of the enactment of this Act.

(15) ELIGIBILITY VERIFICATION TECHNICAL CORRECTION.—(A) Section 1137 of the Social Security Act (42 U.S.C. 1320b-7) is amended by adding at the end the following new subsection:

"(f) Subsections (a)(1) and (d) shall not apply with respect to aliens seeking medical assistance for the treatment of an emergency medical condition under section 1903(v)(2).".

(B) The amendment made by subparagraph (A) shall apply as if it were included in the enactment of section 9406 of the Omnibus Budget Reconciliation Act of 1986.

(16) TECHNICAL CORRECTIONS RELATING TO PRESUMPTIVE ELIGIBILITY.—(A) Section 1920(d)(1)(B) of the Social Security Act (42 U.S.C. 1396r-1(d)(1)(B)) is amended by striking "by a qualified provider" and inserting "by a provider that is eligible for payments under the State plan".

(B) Section 1920(b)(2)(D) of such Act (42 U.S.C. 1396r-1(b)(2)(D)) is amended—

(i) in clause (i)—

(I) in subclause (I), by striking "or section 330" and inserting ", 330, or 340" and by striking "or" at the end,

(II) in subclause (II), by striking the semicolon at the end and inserting ", or", and

(III) by adding after subclause (II) the following new subclause:

"(III) title V of the Indian Health Care Improvement Act;";

(ii) in clause (ii), by striking "or" at the end; and

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

"(iv) is the Indian Health Service or is a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638).".

(C) The amendments made by this paragraph shall be effective as if they were included in section 9407(b) of the Omnibus Budget Reconciliation Act of 1986.

(17) WAIVER FOR CHILDREN INFECTED WITH AIDS OR DRUG DEPENDENT AT BIRTH.—(A) Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended—

(i) by redesignating subsection (f) as paragraph (2),

(ii) in subsection (e), by striking paragraph (2) and by redesignating such subsection as subsection (f),

(iii) by inserting after subsection (d) the following new subsection:

"(e)(1)(A) Subject to paragraph (2), the Secretary shall grant a waiver to provide that a State plan approved under this title shall include as 'medical assistance' under such plan payment for part or all of the cost of nursing care, respite care, physicians' services, prescribed drugs, medical devices and supplies, transportation services, and such other services requested by the State as the Secretary may approve which are provided pursuant to a written plan of care to a child described in subparagraph (B) with respect to whom there has been a determination that but for the provision of such services the infants would be likely to require the level of care provided in a hospital or nursing facility the cost of which could be reimbursed under the State plan.

"(B) Children described in this subparagraph are individuals under 5 years of age who—

"(i) at the time of birth were infected with (or tested positively for) the etiologic agent for acquired immune deficiency syndrome (AIDS),

"(ii) have such syndrome, or

"(iii) at the time of birth were dependent on heroin, cocaine, or phencyclidine,

and with respect to whom adoption or foster care assistance is (or will be) made available under part E of title IV.

"(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

"(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

"(B) under such waiver the average per capita expenditure estimated by the State in any fiscal year for medical assistance provided with respect to such individuals does not exceed 100 percent of the average per capita expenditure that the State reasonably estimates would have been made in that fiscal year for expenditures under the State plan for such individuals if the waiver had not been granted; and

"(C) the State will provide to the Secretary annually, consistent with a data collection plan designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.

"(3) A waiver granted under this subsection may include a waiver of the requirements of section 1902(a)(1) (relating to statewideness) and section 1902(a)(10)(B) (relating to comparability). A waiver under this subsection shall be for an initial term of 3 years and, upon the request of a State, shall be extended for additional five-year periods unless the Secretary determines that for the previous waiver period the assurances provided under paragraph (2) have not been met.

"(4) The provisions of paragraph (6) of subsection (d) shall apply to this subsection in the same manner as it applies to subsection (d).''; and

(iv) in subsection (h), by striking "or (d)" and inserting "(d), or (e)".

(B) Section 1902(a)(10)(A)(ii)(VI) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(VI)) is amended by striking "(c) or (d)" each place it appears and inserting "(c), (d), or (e)".

(l) CORRECTIONS RELATING TO SUBTITLE C OF TITLE IV (NURSING HOME REFORM).—

(1) SECTION 4201.—(A) Section 1819 of the Social Security Act, as added by section 4201(a)(3) of OBRA, is amended—

(i) in subsection (b)(3)(C)(i)(I), by striking "October 1, 1990" the second place it appears and inserting "January 1, 1991";

(ii) in subsection (b)(4)(C)(i)—

(I) by inserting "licensed" after "24-hour",

(II) by striking "employ" and inserting "use", and

(III) by striking "during the day tour of duty (of at least 8 hours a day)" and inserting "at least 8 consecutive hours a day,";

(iii) in subsection (b)(5)(A), by striking "October 1, 1989" and all that follows through "July 1, 1989)" and inserting "January 1, 1990";

(iv) in subsection (e)(1)(A), by striking "March 1, 1989" and inserting "January 1, 1989";

(v) in subsection (e)(1)(B), by striking "March 1, 1990" and inserting "January 1, 1990";

(vi) in subsection (e)(2)(A), by striking "March 1, 1989" and inserting "January 1, 1989";

(vii) in subsection (e)(3), by striking "October 1, 1990" and inserting "October 1, 1989";

(viii) in subsection (e)(5), by striking "July 1, 1989" and inserting "July 1, 1990";

(ix) in subsection (f)(3), by striking "October 1, 1989" and inserting "October 1, 1988";

(x) in subsection (f)(6)(A), by striking "July 1, 1989" and inserting "January 1, 1989"; and

(xi) in subsection (f)(6)(B), by striking "October 1, 1990" and inserting "April 1, 1990".

(B) Section 4201(d) of OBRA is amended—

(i) by striking "AMENDMENT.—" and inserting "AMENDMENTS.—(1)",

(ii) by striking "1919(a)(2)" and inserting "1819(a)(1)", and

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

"(2) Section 1861(n) of such Act (42 U.S.C. 1395x(n)) is amended by striking 'or (j)(1) of this section' and inserting 'or of section 1819(a)(1)'.".

(2) SECTIONS 4201 AND 4211.—(A) Sections 1819(b)(3)(A)(iv) and 1919(b)(3)(A)(iv) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are amended by striking "in the case of a resident eligible for benefits under part A of this title" and by striking "in the case of a resident eligible for benefits under part A of title XVIII", respectively.

(B) Sections 1819(b)(3)(A)(iii) and 1919(b)(3)(A)(iii) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are amended by striking "in the case of a resident eligible for benefits under title XIX," and "in the case of a resident eligible for benefits under this title,", respectively.

(C) Subclause (III) of each of sections 1819(b)(3)(B)(ii) and 1919(b)(3)(B)(ii) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, is amended to read as follows:

"(III) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this clause in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(D) Sections 1819(b)(5) and 1919(b)(5) of the Social Security Act, as added by section 4201(a)(3) of OBRA and as inserted by section 4211(a)(3) of OBRA, respectively, are each amended—

(i) in subparagraph (A), by striking ", who is not a licensed health care professional (as defined in subparagraph (E))",

(ii) in subparagraph (A)(ii), by striking "such services" and inserting "nursing or nursing-related services", and

(iii) in subparagraph (G), by inserting "physical or occupational therapy assistant," after "occupational therapist,".

(E) Effective as of the date of the enactment of this Act and until the effective date of section 1819(c) of such Act, section 1861(j) of the Social Security Act is deemed to include the requirement described in section 1819(c)(3)(A) of such Act (as added by section 4201(a)(3) of OBRA).

(F) Sections 1819(c)(2)(A)(v) and 1919(c)(2)(A)(v) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are each amended by striking "an allowable charge" and all that follows through the semicolon and inserting "for a stay at the facility;".

(G) Sections 1819(c)(6) and 1919(c)(6) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are each amended—

(i) in subparagraph (A)(ii), by striking "once the facility accepts" and inserting "upon", and

(ii) in subparagraph (B), by striking "a facility's acceptance of".

(H) Sections 1819(e)(2)(B) and 1919(e)(2)(B) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively are each amended by inserting after the first sentence the following sentence: "The State shall make available to the public information in the registry.".

(I) Sections 1819(e)(3), 1819(f)(3), 1919(e)(3), and 1919(f)(3) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are each amended—

(i) by inserting "AND DISCHARGES" after "TRANSFERS", and

(ii) by inserting "and discharges" after "transfers".

(J) Sections 1819(f)(2)(A)(i)(I) and 1919(f)(2)(A)(i)(I) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are each amended by striking "cognitive, behavioral and social care" and inserting "recognition of mental health and social service needs".

(K) Sections 1819(f)(7) and 1919(f)(7) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are each amended by striking "patients" and inserting "residents".

(L)(i) Section 1819(f)(7)(B) of the Social Security Act, as added by section 4201(a)(3), is amended by striking "shall not" and inserting "shall".

(ii) Section 1919(f)(7)(B) of the Social Security Act, as inserted by section 4211(a)(3) of OBRA, is amended by striking "do not".

(3) SECTION 4211.—(A) Section 1919(b)(4)(C) of the Social Security Act, as inserted by section 4211(a) of OBRA, is amended—

(i) by striking "registered nurse" each place it appears and inserting "registered professional nurse";

(ii) by striking "employ" and inserting "use";

(iii) by striking "(ii) FACILITY WAIVERS.—" and all that follows through "(i) WAIVER" and inserting "(ii) WAIVER";

(iv) by striking "and subject to clause (ii)" and inserting "and subject to clause (iii)";

(v) by striking "(ii) ASSUMPTION" and inserting "(iii) ASSUMPTION"; and

(vi) in clause (iii), as so redesignated, by striking "excercise" and inserting "exercise".

(B) Section 1919(b)(5)(A) of the Social Security Act, as added by section 4211(a)(3) of OBRA, is amended by striking "subparagraph (E)" and inserting "subparagraph (F)".

(C) Effective as of the date of the enactment of this Act and until the effective date of section 1919(c) of such Act, section 1905(c) of the Social Security Act is deemed to include the requirement described in section 1919(c)(3)(A) of such Act (as inserted by section 4211(a)(3) of OBRA).

(D) Section 1919 of the Social Security Act, as inserted by section 4211(a)(3) of OBRA, is amended—

(i) in subsection (e)(1)(A), by striking "September 1, 1988" and inserting "January 1, 1989";

(ii) in subsection (e)(1)(B), by striking "September 1, 1990" and inserting "January 1, 1990";

(iii) in subsection (e)(7)(E), by striking "October 1, 1988" and inserting "April 1, 1989"; and

(iv) in subsection (f)(2), by striking "July 1, 1988" and inserting "September 1, 1988".

(E) Section 1902(a)(28)(D)(i) of the Social Security Act, as amended by section 4211(b)(1)(B) of OBRA, is amended by striking "1919(f)" and all that follows through "instrument)" and inserting "1919(e)".

(F) Section 4211(d)(2) of OBRA is amended by striking "For calendar quarters during fiscal years 1988 and 1989" and inserting "For the 8 calendar quarters (beginning with the calendar quarter that begins on July 1, 1988)".

(G) Section 4211(h)(10)(G) of OBRA is amended by adding before the period at the end the following: ", and by striking 'skilled nursing facility or intermediate care facility' in subparagraph (B) and inserting 'nursing facility' ".

(H) Section 4211(h)(2) of OBRA is amended—

(i) in subparagraph (C), by striking "inserting 'nursing facilities' " each place it appears and inserting "inserting 'nursing facilities and for intermediate care facilities for the mentally retarded' ",

(ii) in subparagraph (D)(i), by striking "inserting 'nursing facility' " and inserting "inserting 'nursing facility or intermediate care facility for the mentally retarded' ", and

(iii) in subparagraph (D)(ii), by striking "inserting 'nursing facility' " and inserting "inserting 'nursing facility services or services in an intermediate care facility for the mentally retarded' ".

(I) Subparagraph (B) of section 4211(h)(12) of OBRA is amended to read as follows:

"(B) in subsection (c)(2)(B)(ii), by striking 'skilled' each place it appears.".

(4) SECTION 4202.—Section 1819(g)(2)(C)(i) of the Social Security Act, as added by section 4202(a) of OBRA, is amended by striking "October 1, 1990" and inserting "January 1, 1990".

(5) SECTIONS 4202 and 4212.—Sections 1819(g) and 1919(g) of the Social Security Act, as added by sections 4202(a)(2) and 4212(a) of OBRA, respectively, are amended—

(A) in paragraph (1)(C), by striking ", review," and inserting "and timely review";

(B) in the first sentence of paragraph (1)(C), by inserting "or by another individual used by the facility in providing services to such a resident" after "a nursing facility";

(C) by striking the second sentence of paragraph (1)(C) and inserting the following: "The State shall, after notice to the individual involved and a reasonable opportunity for a hearing for the individual to rebut allegations, make a finding as to the accuracy of the allegations. If the State finds that a nurse aide has neglected or abused a resident or misappropriated resident property in a facility, the State shall notify the nurse aide and the registry of such finding. If the State finds that any other individual used by the facility has neglected or abused a resident or misappropriated resident property in a facility, the State shall notify the appropriate licensure authority.";

(D) in paragraph (1)(D), by striking "to establish standards under subsection (f)" and inserting "to issue regulations to carry out this subsection";

(E) in paragraph (2)(A)(i), by amending the third sentence to read as follows: "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).";

(F) in paragraph (3)(D) (relating to special surveys of compliance, as redesignated by paragraph (6)(A) in the case of section 1919(g)), by striking "on that basis" and inserting "on the basis of that survey"; and

(G) in paragraph (4), by striking "chronically".

(6) SECTION 4212.—(A) Section 1919(g)(3) of the Social Security Act, as added by section 4212(a) of OBRA, is amended by redesignating the second subparagraph (C) (relating to special surveys of compliance) as subparagraph (D).

(B) Section 4212(b) of OBRA is amended to read as follows:

"(b) POSTING SURVEY RESULTS.—Section 1919(c) of such Act is amended by adding at the end the following new paragraph:

" '(7) POSTING OF SURVEY RESULTS.—A nursing facility must post in a place readily accessible to residents, and family members and legal representatives of residents, the results of the most recent survey of the facility conducted under subsection (g).'.".

(C) Section 1902(a)(33)(B) of the Social Security Act, as amended by section 4212(d)(3) of OBRA, is amended by striking "1919(d)" and inserting "1919(g)".

(D) Section 4212(e)(1)(B) of OBRA is amended by inserting "provided" after "services" each place it appears.

(E) Section 4212(e) of OBRA is amended by adding at the end the following new paragraph:

"(5) Section 1922(e) of such Act, as redesignated and transferred by section 4211(a)(2) of this Act, is amended by striking '1910(c)' in paragraphs (1) and (2)(A) and inserting '1910(b)'.".

(7) SECTIONS 4203 and 4213.—(A) Sections 1819(h)(2)(B)(ii) and 1919(h)(3)(C)(ii) of the Social Security Act, as added sections 4203(a)(2) and 4213(a) of OBRA, respectively, are each amended by striking "and the Secretary" and all that follows through "1128A." and inserting the following: ". 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) Sections 1819(h)(6) and 1919(h)(9) of the Social Security Act, as added by sections 4203(a)(2) and 4213(a) of OBRA, respectively, are each amended by inserting "by such facilities" after "shall be made available".

(8) SECTION 4213.—(A) Section 4213(a) of OBRA is amended by striking "as inserted by section 4201 and amended by section 4202" and inserting "as inserted by section 4211 and amended by section 4212".

(B) Section 1919(h) of the Social Security Act, as added by section 4213(a) of OBRA, is amended—

(i) in the last sentence of paragraph (1), by striking "(2)(A)(i)" and inserting "(2)(A)(ii)",

(ii) in the second sentence of paragraph (2)(B)(i), by striking "or otherwise", and

(iii) in paragraph (5), by striking "State and the Secretary" and inserting "State or the Secretary, respectively".

(C) Paragraph (1) of section 4213(b) of OBRA is amended by striking "1902" and all that follows through the end and inserting the following: "1902(i) of such Act (42 U.S.C. 1396a(i)) is amended—

"(A) in paragraph (1), by striking 'skilled nursing facility or intermediate care facility' and inserting 'intermediate care facility for the mentally retarded';

"(B) in paragraph (1), by striking 'the provisions of section 1861(j) or section 1905(c), respectively,' and inserting 'the requirements for such a facility under this title'; and

"(C) in paragraphs (2) and (3), by striking 'the provisions of section 1861(j) or section 1905(c) (as the case may be)' and inserting 'the requirements for such a facility under this title'.".

(9) SECTION 4204.—(A) Section 4204(a) of OBRA is amended by striking "extended care".

(B) Section 4204 of OBRA is amended—

(i) in subsection (a), by striking "made by this part" and inserting "made by sections 4201 and 4202 (relating to skilled nursing facility requirements and survey and certification requirements)",

(ii) by redesignating subsection (c) as subsection (d), and

(iii) by inserting after subsection (a) the following new subsection:

"(b) ENFORCEMENT.—(1) Except as otherwise specifically provided in section 1819 of the Social Security Act, the amendments made by section 4203 of this Act apply January 1, 1988, without regard to whether regulations to implement such amendments are promulgated by such date.

"(2) In applying the amendments made by section 4203 of this Act for services furnished by a skilled nursing facility before October 1, 1990, any reference to a requirement of subsection (b), (c), or (d), of section 1819 of the Social Security Act is deemed a reference to the provisions of section 1861(j) of such Act.".

(10) SECTION 4214.—Section 4214 of OBRA is amended—

(A) by striking "(c) TRANSITIONAL RULE.—" and inserting "(2)",

(B) by inserting "of section 1919 of the Social Security Act" after "(b), (c), or (d)", and

(C) by redesignating subsection (d) as subsection (c).

(m) CORRECTIONS TO SUBTITLE E OF TITLE IV (RELATING TO RURAL HEALTH).—

(1) SECTION 4401.—Section 711(b)(1) of the Social Security Act, as added by section 4401 of OBRA, is amended by striking "section 4083 of the Omnibus Budget Reconciliation Act of 1987" and inserting "section 4403 of the Omnibus Budget Reconciliation Act of 1987 (as such section pertains to rural health issues)".

(2) SECTION 4403.—(A) Section 4403 of OBRA is amended—

(i) in the heading, by striking "EXPERIMENTS AND DEMONSTRATION PROJECTS RELATING TO RURAL HEALTH CARE ISSUES" and inserting "RESEARCH AND DEMONSTRATION PROJECTS ON RURAL AND INNER-CITY HEALTH ISSUES";

(ii) in subsection (a)—

(I) by striking "SET ASIDE.—" and inserting "SET ASIDES FOR ISSUES OF HEALTH CARE IN RURAL AREAS AND IN INNER-CITY AREAS.—(1)",

(II) by striking "expended in each fiscal year" and all that follows through "1972" and inserting "annually appropriated to, and expended by, the Health Care Financing Administration for the conduct of research and demonstration projects in fiscal years 1988, 1989, and 1990",

(III) by striking "experiments" and inserting "research";

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

"(2) Not less than ten percent of the total amounts annually appropriated to, and expended by, the Health Care Financing Administration for the conduct of research and demonstration projects in fiscal years 1988,

1989, and 1990 shall be expended for research and demonstration projects relating exclusively or substantially to issues of providing health care in inner-city areas, including (but not limited to) the impact of the payment methodology under section 1886(d) of the Social Security Act on the financial viability of inner-city hospitals and the impact of medicare policies on access to (and the quality of) health care in inner-city areas."; and

(iv) in subsection (b)—

(I) by striking "of experiments" and inserting "of research",

(II) by inserting "or to inner-city health issues" after "rural health issues", and

(III) by striking "experiments and".

(B) The item in the table of contents of OBRA relating to section 4403 is amended to read as follows:

"Sec. 4403. Set aside for research and demonstration projects on rural and inner-city health issues.".

(n) CORRECTIONS TO CERTAIN HEALTH-RELATED PROVISIONS IN TITLE IX.—

(1) SECTION 9010.—The last sentence of section 226(b) of the Social Security Act, as added by section 9010(e)(3) of OBRA, is amended to read as follows: "In determining when an individual's entitlement or status terminates for purposes of the preceding sentence, the term '36 months' in the second sentence of section 223(a)(1), in section 202(d)(1)(G)(i), in the last sentence of section 202(e)(1), and in the last sentence of section 202(f)(1) shall be applied as though it read '15 months'.".

(2) SECTION 9115.—Section 9115(b) of OBRA is amended by striking "1902(l)" and inserting "1902(o)".

(3) SECTION 9119.—Section 9119 of OBRA is amended by adding at the end the following new subsection:

"(d) CONFORMING AMENDMENTS TO MEDICAID PROGRAM FOR THE MEDICALLY NEEDY.—(1) Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

"(A) in subsection (a)—

"(i) by striking 'and' at the end of paragraph (48),

"(ii) by striking the period at the end of paragraph (49) and inserting '; and', and

"(iii) by inserting after paragraph (49) the following new paragraph:

" '(50) provide, in accordance with subsection (q), for a monthly personal needs allowance for certain institutionalized individuals and couples.'; and

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

" '(q)(1)(A) In order to meet the requirement of subsection (a)(50), the State plan must provide that, in the case of an institutionalized individual or couple described in subparagraph (B), in determining the amount of the individual's or couple's income to be applied monthly to payment for the cost of care in an institution, there shall be deducted from the monthly income (in addition to other allowances otherwise provided under the State plan) a monthly personal needs allowance—

" '(i) which is reasonable in amount for clothing and other personal needs of the individual (or couple) while in an institution, and

" '(ii) which is not less (and may be greater) than the minimum monthly personal needs allowance described in paragraph (2).

" '(B) In this subsection, the term "institutionalized individual or couple" means an individual or married couple—

" '(i) who is an inpatient (or who are inpatients) in a medical institution or nursing facility for which payments are made under this title throughout a month, and

" '(ii) who is or are determined to be eligible for medical assistance under the State plan.

" '(2) The minimum monthly personal needs allowance described in this paragraph is $30 for an institutionalized individual and $60 for an institutionalized couple (if both are aged, blind, or disabled, and their incomes are considered available to each other in determining eligibility).'.

"(2) The amendments made by paragraph (1) apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1988, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.".

(o) SUBTITLE D OF TITLE IV.—

(1) SECTION 4303.—Section 2115 of the Public Health Service Act—

(A) in subsection (i)(1), as added by section 4303(a) of OBRA, is amended by striking "from appropriations under subsection (i)" and inserting "by the Secretary from appropriations under subsection (j)", and

(B) in subsection (j), as added by section 4303(b) of OBRA, is amended by inserting "to the Department of Health and Human Services" after "to be appropriated".

(2) SECTION 4307.—Section 4307(3)(C) of OBRA is amended by striking "subsection (g)" and inserting "subsection (e), as redesignated by section 4303(d)(2)(A),".

(3) SECTION 4308.—(A) Subtitle D of title IV of OBRA is amended by adding at the end the following new section:

"SEC. 4308. TECHNICAL AMENDMENTS RELATING TO COURT OF CLAIMS PROCEDURES.

"(a) DUTIES OF SPECIAL MASTERS.—Section 2112(c)(2) of the Public Health Service Act (42 U.S.C. 300aa-12(a)) is amended—

"(1) by inserting ', shall prepare and submit to the court proposed findings of fact and conclusions of law,' after 'adjunct to the court',

"(2) by inserting 'and' at the end of subparagraph (C),

"(3) by striking ', and' at the end of subparagraph (D) and inserting a period, and

"(4) by striking subparagraph (E).

"(b) REQUIRING FILING OF APPEALS WITHIN 60 DAYS.—Section 2112(e) of such Act (42 U.S.C. 300aa-12(e)), as redesignated by section 4303(d)(2)(A), is amended by inserting 'within 60 days of the date of the judgment' after 'petition filed'.

"(c) CLARIFICATION ON TIMING OF BRINGING ADDITIONAL ACTIONS.—The second sentence of section 2121(a) of such Act (42 U.S.C. 300aa-21(a)) is amended by striking 'the entry of the court's judgment' and inserting 'the court's final judgment'.".

(B) The table of contents relating to title IV of OBRA is amended by inserting after the item relating to section 4307 the following new item:

"Sec. 4308. Technical amendments relating to Court of Claims procedures.".

SUBTITLE C—MISCELLANEOUS PROVISIONS

SEC. 421. MAINTENANCE OF EFFORT.

(a) IN GENERAL.—

(1) DUPLICATIVE PART A BENEFITS.—If an employer described in subsection (b)(1) provides, as of the date of the enactment of this Act, health care benefits to an employee or retired former employee that are duplicative part A benefits (as defined in paragraph (3)(A)), the employer shall, during the period described in subsection (c)(1), provide to the employee or retired former employee an amount of additional benefits or refunds, or combination of such benefits and refunds, that total at least the actuarial value of the duplicative part A benefits during the period described in subsection (c)(1)(A).

(2) DUPLICATIVE PART B BENEFITS.—If an employer described in subsection (b)(2) provides, as of the date of the enactment of this Act, health care benefits to an employee or retired former employee that are duplicative part B benefits (as defined in paragraph (3)(B)), the employer shall, during the period described in subsection (c)(2), provide to the employee or retired former employee an amount of additional benefits or refunds, or combination of such benefits and refunds, that total at least the actuarial value of the duplicative part B benefits during the period described in subsection (c)(1)(B).

(3) DUPLICATIVE BENEFITS DEFINED.—In this section:

(A) The term "duplicative part A benefits" means benefits which are duplicative of benefits under part A of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1989), but which were not duplicative of such benefits as such part was in effect before the date of the enactment of this Act.

(B) The term "duplicative part B benefits" means benefits which are duplicative of benefits under part B of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1990, but excluding any such benefits with respect to covered outpatient drugs), but which were not duplicative of such benefits as such part was in effect before the date of the enactment of this Act.

(C) Duplicative part A benefits and duplicative part B benefits shall be determined under this section net of any premiums payable by employees (or retired former employees) attributable to the respective duplicative benefits.

(b) EMPLOYERS COVERED.—

(1) DUPLICATIVE PART A BENEFITS.—An employer is described in this paragraph if the employer (including a public employer, other than an employer to which section 422 applies) provides, as of the date of the enactment of this Act, duplicative part A benefits the actuarial value of which is at least 50 percent of the national average actuarial value (discounted to the value as of the date of the enactment of this Act) of the duplicative part A benefits.

(2) DUPLICATIVE PART B BENEFITS.—An employer is described in this paragraph if the employer (including a public employer, other than an employer to which section 422 applies) provides, as of the date of the enactment of this Act, duplicative part B benefits the actuarial value of which is at least 50 percent of the national average actuarial value (discounted to the value as of the date of the enactment of this Act) of the duplicative part B benefits.

(3) ELECTION.—For purposes of this section—

(A) IN GENERAL.—An employer may elect to compute the actuarial value of duplicative part A benefits and duplicative part B benefits either—

(i) on the basis of average actuarial values published by the Secretary under subparagraph (B)(i), or

(ii) on the basis of the actuarial value with respect to that employer, computed using guidelines published by the Secretary under subparagraph (B)(ii).

(B) COMPUTATION OF ACTUARIAL VALUES.—The Secretary of Health and Human Services, before the beginning of each of 4 years (beginning with 1989 for duplicative part A

benefits and beginning with 1990 for duplicative part B benefits) shall—

(i) calculate and publish the national average actuarial value of duplicative part A benefits and duplicative part B benefits for 1988 and the year involved, and

(ii) guidelines for employers to use, under subparagraph (A)(ii), in computing the actuarial value of such duplicative benefits with respect to each employer for such years.

The guidelines published under clause (ii) shall include instructions to assist employers in determining whether or not employers are described in paragraph (1) or (2) of this subsection.

(c) EFFECTIVE PERIOD.—

(1) IN GENERAL.—

(A) DUPLICATIVE PART A BENEFITS.—Subsection (a)(1) shall only be effective during the period beginning on January 1, 1989, and ending on December 31, 1989, or, if later, the date specified in paragraph (2).

(B) DUPLICATIVE PART B BENEFITS.—Subsection (a)(2) shall only be effective during the period beginning on January 1, 1990, and ending on December 31, 1990, or, if later, the date specified in paragraph (2).

(2) EXTENSION TO COVER CURRENT COLLECTIVE BARGAINING AGREEMENTS.—In the case of employees or retired former employees who are provided duplicative part A benefits or duplicative part B benefits under a collective bargaining agreement that is in effect on the date of enactment of this Act, the date specified in this paragraph is the date of the expiration of the agreement (determined without regard to any extension thereof agreed to after the date of the enactment of this Act).

(d) EXCLUSION OF MULTI-EMPLOYER PLANS.—This section shall not apply with respect to duplicative benefits provided under a plan—

(1) to which more than one employer is required to contribute, and

(2) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer.

SEC. 422. RATE REDUCTION FOR MEDICARE ELIGIBLE FEDERAL ANNUITANTS.

(a) IN GENERAL.—

(1) The Office of Personnel Management shall, in consultation with carriers offering health benefits plans contracted pursuant to section 8902 of title 5, United States Code, reduce the rates charged medicare eligible individuals participating in such health benefit plans, by the amount, prorated for each covered medicare eligible individual, of the estimated cost of medical services and supplies which, but for the amendments made by subtitle A of title I and subtitle A of title II of this Act, would have been payable by such plans.

(2) The reduced rates as provided under paragraph (1), shall apply as of the effective dates of the respective amendments.

(b) AUTHORIZATION OF AVAILABILITY OF EMPLOYEE HEALTH BENEFITS FUND FOR RATE REDUCTION.—Funds in the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, are available without fiscal year limitation for costs incurred by the Office of Personnel Management in making rate reductions provided under this section.

(c) DEFINITION.—For purposes of this section the term "medicare eligible individual" means any annuitant, survivor of an annuitant, or former spouse of an annuitant—

(1) who is—

(A) otherwise eligible for benefits under Chapter 89 of title 5, United States Code;

(B) eligible for benefits under part A of title XVIII of the Social Security Act; and

(C) covered by the insurance program established under part B of such title; and

(2) for whom benefits paid under title XVIII of the Social Security Act are the primary source of health care benefits.

SEC. 423. STUDY AND REPORTS BY THE OFFICE OF PERSONNEL MANAGEMENT ON OFFERING MEDICARE SUPPLEMENTAL PLANS TO FEDERAL MEDICARE ELIGIBLE INDIVIDUALS, AND OTHER CHANGES.

(a) STUDY AND REPORT.—

(1) No later than April 1, 1989, the Director of the Office of Personnel Management shall conduct a study and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives regarding changes to the health benefits program established under chapter 89 of title 5, United States Code, that may be required to incorporate plans designed specifically for medicare eligible individuals and to improve the efficiency and effectiveness of the program.

(2) Any medicare supplemental plan recommended by the Director of the Office of Personnel Management shall not duplicate benefits for which payment may be made under title XVIII of the Social Security Act, however such recommendation—

(A) shall cover expenses which are not payable under such title by reason of deductibles or coinsurance amounts; and

(B) may offer additional reimbursement—

(i) where benefits under such title are limited by fee schedule; and

(ii) for benefits not covered under such title which may be of value to medicare eligible individuals.

(b) FEASIBILITY STUDY AND REPORT.—No later than April 1, 1989, the Director of the Office of Personnel Management shall report to the appropriate committees of the Congress whether it is feasible to adopt such standards as issued by the National Association of Insurance commissioners as required by section 1882 of the Social Security Act (42 U.S.C. 1395ss) for medicare supplemental policies, when providing medicare supplemental plans as a type of health benefits plan available for Federal employees pursuant to chapter 89 of title 5, United States Code.

SEC. 424. BENEFITS COUNSELING AND ASSISTANCE DEMONSTRATION PROJECT FOR CERTAIN MEDICARE AND MEDICAID BENEFICIARIES.

(a) TRAINING AND TECHNICAL ASSISTANCE.—

(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a demonstration project through an agreement with a private or public nonprofit agency or organization, which demonstrates, to the satisfaction of the Secretary, that its volunteers are adequately trained and competent to render effective benefits counseling and assistance to the elderly, for the purpose of providing training and technical assistance to prepare volunteers to provide to elderly individuals receiving benefits under title XVIII or XIX of the Social Security Act counseling with respect to eligibility for such benefits and assistance in preparing such documentation as may be required to fully receive such benefits.

(2) In addition to any other forms of technical assistance provided under this subsection, the Secretary is authorized to provide to the project—

(A) material to be used in making elderly persons aware of the availability of assistance under volunteer assistance programs under this section; and

(B) technical materials and publications to be used by such volunteers.

(b) POWERS OF THE SECRETARY.—Under the demonstration project under this section, the Secretary is authorized—

(1) to provide for the training of volunteers, and assist in such training, to insure that volunteers are qualified to provide benefits and counseling assistance (as described in paragraph (1)) to the elderly;

(2) to provide reimbursement to volunteers through the agency or organization for transportation, meals, and other expenses incurred by them in training or providing benefits counseling and assistance under this section, and such other support and assistance as the Secretary determines to be appropriate in carrying out the provisions of this section; and

(3) to provide for the use of services, personnel, and facilities of Federal executive agencies and of State and local public agencies with their consent, with or without reimbursement therefor.

(c) EMPLOYMENT OF VOLUNTEERS.—

(1) Service as a volunteer in the demonstration project carried out under this section shall not be considered service as an employee of the United States. Volunteers under the project shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, except that the provisions of section 1905 of title 18, United States Code, shall apply to volunteers as if they were employees of the United States.

(2) Amounts received by volunteers serving in any program carried out under this section as reimbursement for expenses are exempt from taxation under chapters 1 and 21 of the Internal Revenue Code of 1986.

(d) DEFINITION.—For purposes of this section, the term "elderly individual" means an individual who has attained the age of 60 years.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in appropriate parts from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, for fiscal years 1989, 1990, and 1991 such sums as may be necessary to carry out the provisions of this section.

SEC. 425. CASE MANAGEMENT DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Within 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish 4 demonstration projects under which an appropriate entity agrees to provide case management services to medicare beneficiaries with selected catastrophic illnesses, particularly those with high costs of health care services. At least one such demonstration project shall be conducted through an agreement with a utilization and quality control peer review organization with a contract with the Secretary under part B of title XI of the Social Security Act.

(b) PURPOSE OF PROJECTS.—It is the purpose of the demonstration projects established under this section to provide the Secretary and the Congress with the information necessary—

(1) to evaluate the appropriateness of providing case management services under the medicare program for medicare beneficiaries with high costs of medical care, and

(2) to determine the most effective approach to implementing a case management system under the program for such beneficiaries.

(c) AGREEMENT.—The agreement entered into under subsection (a) shall specify—

(1) the high cost cases with respect to which case management services will be provided under the project,

(2) the payments to be made to the entity conducting the project for carrying out the project, and

(3) such other terms and conditions as the Secretary and the entity conducting the project may agree to.

(d) WAIVERS.—The Secretary shall waive—

(1) such provisions of part B of title XI of the Social Security Act, and

(2) such provisions of title XVIII of such Act as relate to limitations or restrictions on benefits under such title,

as the Secretary determines to be appropriate for the conduct of demonstration projects under this section.

(e) DURATION.—

(1) Except as provided in paragraph (2), a demonstration project under this section shall be conducted for a 2-year period.

(2) The Secretary may terminate a demonstration project before the end of the 2-year period specified in paragraph (1) if the Secretary determines that the entity conducting the project is not in substantial compliance with the terms of the agreement entered into under subsection (a).

(f) INFORMATION AND REPORTS.—

(1) An entity with an agreement under subsection (a) shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of that project.

(2)(A) The Secretary shall submit to the Congress an interim report on the projects conducted under this section based upon information that is derived from the first year of project operations and shall set forth any interim findings, recommendations, and conclusions that the Secretary determines to be appropriate.

(B) The Secretary shall submit to the Congress a final report on the demonstration projects conducted under this section based upon data derived from the projects and shall update the findings, recommendations, and conclusions set forth in the interim report submitted under paragraph (1).

(g) AUTHORIZATION TO USE CERTAIN FUNDS.—The Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Insurance Trust Fund in such proportions as the Secretary determines to be appropriate, of not to exceed $2,000,000 in each of 2 fiscal years for administrative costs in carrying out the demonstration projects under this section. Such amounts shall be transferred without regard to amounts appropriated in advance in appropriation Acts.

SEC. 426. EXTENSIONS OF EXPIRING PROVISIONS.

(a) HOSPICE WAIVER OF LIABILITY PROVISION.—Section 9305(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "November 1, 1988" and inserting "November 1, 1990".

(b) SKILLED NURSING FACILITY WAIVER OF LIABILITY PRESUMPTION.—The second sentence of section 9126(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(1) by striking "30-month", and

(2) by inserting before the period at the end the following: "and ending on October 31, 1990".

(c) HOME HEALTH SERVICES WAIVER OF LIABILITY PRESUMPTION.—Section 9305(g)(3) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "October 1, 1989" and inserting "November 1, 1990".

(d) HOME HEALTH WAIVER OF LIABILITY PRESUMPTION.—The second sentence of section 9205 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking all that follows "until" and inserting "November 1, 1990.".

(e) PROHIBITION ON NEW COST-SAVING REGULATIONS.—Section 4039(d) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(1) by striking "October 15, 1988" and inserting "October 15, 1989", and

(2) by inserting "or in fiscal year 1990" after "in fiscal year 1989".

SEC. 427. ADVISORY COMMITTEE ON MEDICARE HOME HEALTH CLAIMS.

(a) ESTABLISHMENT.—The Administrator of the Health Care Financing Administration (in this section referred to as the "Administrator") shall, within 90 days after the date of the enactment of this Act, establish an advisory committee to be known as the Advisory Committee on Medicare Home Health Claims (in this section referred to as the "Advisory Committee").

(b) MEMBERSHIP.—The Advisory Committee shall be composed of 11 members appointed by the Administrator for the life of the Committee. Of the members appointed—

(1) at least 5 shall be representatives of home health or visiting nurse agencies, and

(2) the remaining members shall be representative of fiscal intermediaries, physician groups, and senior citizen groups, but no more than 3 of such members may be representative of fiscal intermediaries.

Members shall be appointed so as to representative of all geographic areas of the United States.

(c) DUTIES.—The Advisory Committee shall study the reasons for the increase in the denial of claims for home health services during 1986 and 1987, the ramifications of such increase, and the need to reform the process involved in such denials.

(d) REPORT.—The Advisory Committee shall report to the Administrator, the Committees on Ways and Means and Energy and Commerce of the House of Representatives, and the Committee on Finance of the Senate, not later than one year after the date of the enactment of this Act, on its study under subsection (c), the findings of its study, and its recommendations for changes in the regulations under title XVIII of the Social Security Act as they relate to denial of claims for home health services.

(e) MISCELLANEOUS PROVISIONS.—

(1) The Advisory Committee shall elect one of its members to serve as Chairman.

(2)(A) A majority of the members of the Advisory Committee shall constitute a quorum for the transaction of business.

(B) The Advisory Committee shall meet at the call of the Chairman, or at the call of a majority of its members.

(3) Members of the Advisory Committee shall serve without compensation, but shall be entitled to reimbusement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Committee.

(4) The Advisory Committee may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(5) In carrying out its duties, the Advisory Committee is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which is has a responsibilty under this section, as the Committee may deem advisable.

(6) The Advisory Committee may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities. Upon request of the Committee, any such department or agency shall furnish any such data or information.

(7) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Advisory Committee may request.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 428. PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

(a) IN GENERAL.—Part A of title XI is amended by adding at the end the following new section:

"PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE

"SEC. 1140. (a) No person may use, in connection with any item constituting an advertisement, solicitation, circular, book, pamphlet, or other communication, or a play, motion picture, broadcast, telecast, or other production, alone or with other words, letters, symbols, or emblems—

"(1) the words 'Social Security', 'Social Security Account', 'Social Security System', 'Social Security Administration', 'Medicare', 'Health Care Financing Administration', the letters 'SSA' or 'HCFA', or any other combination or variation of such words or letters, or

"(2) a symbol or emblem of the Social Security Administration (including the design of, or a reasonable facsimile of the design of, the social security card issued pursuant to section 205(c)(2)(E), the check used for payment of benefits under title II, or envelopes or other stationery used by the Social Security Administration) or of the Health Care Financing Administration, or any other combination or variation of such symbols or emblems,

in a manner which such person knows or should know would convey the false impression that such item is approved, endorsed, or authorized by the Social Security Administration, the Health Care Financing Administration, or the Department of Health and Human Services or that such person has some connection with, or authorization from, the Social Security Administration, the Health Care Financing Administration, or the Department of Health and Human Services.

"(b)(1) Subject to paragraph (2), the Secretary may, pursuant to regulations, impose a civil money penalty not to exceed—

"(A) except as provided in subparagraph (B), $5,000, or

"(B) in the case of a violation consisting of a broadcast or telecast, $25,000,

against any person for each violation by such person of subsection (a).

"(2) The total amount of penalties which may be imposed under paragraph (1) with respect to multiple violations in any one year period consisting of substantially identical communications or productions shall not exceed $100,000.

"(c)(1) Subsections (c), (d), (e), (g), (j), and (k) of section 1128A shall apply with respect

to violations under subsection (a) and penalties imposed under subsection (b) in the same manner and to the same extent as such subsections apply with respect to claims in violation of section 1128A and penalties imposed under section 1128A(a).

"(2) Penalties imposed against a person under subsection (b) may be compromised by the Secretary and may be recovered in a civil action in the name of the United States brought in the district court of the United States for the district in which the violation occurred or where the person resides, has its principal office, or may be found, as determined by the Secretary. Amounts recovered under this section shall be paid to the Secretary and shall be deposited as miscellaneous receipts of the Treasury of the United States. The amount of such penalty when finally determined, or the amount agreed upon in compromise, may be deducted from any sum then or later owing by the United States to the person against whom the penalty has been imposed.".

(b) AUTHORIZING CIVIL MONEY PENALTIES FOR CERTAIN VIOLATIONS RELATING TO MEDICAL SUPPLEMENTAL POLICIES.—Section 1882(d) (42 U.S.C. 1395ss(d)) is amended—

(1) by striking "shall be guilty" and all that follows through "or both" in each of paragraphs (1), (2), (3)(A), and (4)(A), and inserting in each case the following: "shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $5,000 for each such prohibited act", and

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

"(5) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under paragraphs (1), (2), (3)(A), and (4)(A) in the same manner as such provisions apply to penalties and proceedings under section 1128A(a).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply only with respect to violations occurring on or after such date.

SEC. 429. DEMONSTRATION PROJECTS WITH RESPECT TO CHRONIC VENTILATOR-DEPENDENT UNITS IN HOSPITALS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall provide for up to 5 demonstration projects, for up to 3 years each, to review the appropriateness of classifying chronic ventilator-dependent units in hospitals as rehabilitation units. Such projects shall be conducted in consultation with the Prospective Payment Assessment Commission.

(b) WAIVER AUTHORITY.—In conducting demonstration projects under this section for units, the Secretary may treat such a unit as a rehabilitation unit described in section 1886(d)(1)(B) of the Social Security Act for purposes of such section.

And the Senate agree to the same.

From the Committee on Ways and Means, for consideration of titles I, II, and IV of the House bill, and the entire Senate amendment (except for secs. 14, 14A, 14B, 14C, 19, 20, and 25), and modifications committed to conference:

DAN ROSTENKOWSKI,
PETE STARK,
BRIAN J. DONNELLY,
WILLIS D. GRADISON, JR.,

From the Committee on Energy and Commerce, for consideration of titles II, III, and IV of the House bill, and the Senate amendment (except for secs. 2, 3, 12, and 18(a)) and for sec. 6 of the Senate amendment insofar as consideration of such section entails changes in eligibility requirements to participate in part B of the Medicare program, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
RON WYDEN,
EDWARD R. MADIGAN
(except for sec. 204 of the House bill and sec. 7 of the Senate amendment),

For consideration of sec. 204 of the House bill and sec. 7 of the Senate amendment:

MICHAEL BILIRAKIS,

From the Committee on Education and Labor, for consideration of sec. 21 of the Senate amendment, and modifications committed to conference:

GUS HAWKINS,
WILLIAM CLAY,
JAMES JEFFORDS,
Managers on the Part of the House.

LLOYD BENTSEN,
MAX BAUCUS,
BILL BRADLEY,
GEORGE MITCHELL,
DAVID PRYOR,
JOHN H. CHAFEE,
JOHN HEINZ,
DAVID DURENBERGER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2470) to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the medicare program, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. Short Title; References in Act; Table of Contents (Section 1 of House bill; Section 1 of Senate amendment)

Present law

No provision.

House bill

Specifies that the act may be cited as the "Medicare Catastrophic Protection Act of 1987." Specifies that, except as otherwise specifically provided, whenever an amendment in this act is stated as an amendment or repeal of a section or provision, the reference is to the Social Security Act. Includes a table of contents.

Senate amendment

Similar provision, except specifies that act may be cited as the "Medicare Catastrophic Loss Prevention Act of 1987."

Conference agreement

The conference agreement specifies that the Act may be cited as the Medicare Catastrophic Coverage Act of 1988.

2. Inpatient Hospital Services (Section 101 of House bill; Sections 2 and 3 of Senate amendment)

Present law

(a) Deductible/Spell of Illness.—During each "spell of illness", beneficiaries are required to pay an inpatient hospital deductible ($540 in 1988). A spell of illness is defined as beginning when a beneficiary enters a hospital and ending when he or she has not been in a hospital or skilled nursing facility for 60 days.

(b) Limitation on Covered Inpatient Days.—(1) A beneficiary is entitled to 90 days of inpatient hospital services during each spell of illness. An additional lifetime reserve of 60 days may be drawn upon when an individual exceeds 90 days in a spell of illness. Medicare payment ceases after a beneficiary has used 90 days in a benefit period and exhausted the lifetime reserve days.

(2) The program includes an inpatient psychiatric carryover restriction for persons who are inpatients of a psychiatric hospital on the first day of Medicare entitlement. Days during the immediately preceding 150 days that the individual is an inpatient of a psychiatric hospital are subtracted from the 150 days that would otherwise be available in the initial spell of illness for inpatient psychiatric services.

(c) Coinsurance.—Beneficiaries are liable for daily coinsurance charges, equal to one-quarter of the inpatient hospital deductible for days 61-90 in a spell of illness ($135 in 1988). In addition, beneficiaries are liable for daily coinsurance charges, equal to one-half of the inpatient hospital deductible, for the 60 lifetime reserve days ($270 in 1988).

(d) Part A Premium.—Individuals aged 65 or over who are not automatically entitled to Part A may voluntarily enroll in the program if they pay a monthly premium. The premium amount, updated annually for the following year, is equal to $33 multiplied by the ratio of the inpatient hospital deductible for the following year to the inpatient hospital deductible in 1973.

(e) Adjustment in PPS Payment Rates.—Annual adjustments are made in payment amounts to PPS and PPS-exempt hospitals. Beginning in fiscal year 1988, the Secretary is required to adjust annually hospital weighting factors. Adjustments to outlier cutoff points are made periodically.

House bill

(a) Deductible/Spell of Illness.—Specifies that the deductible is to be applied to the first period of continuous hospitalization that begins in a calendar year. A beneficiary is required to pay only one deductible in a calendar year.

Eliminates "spell of illness" concept.

Specifies that beneficiaries whose "spell of illness" (for which a deductible is imposed) began before January 1, 1988, and had not yet ended as of such date, would not be required to pay an additional deductible for that spell of illness in 1988 or 1989.

(b) Limitation on Covered Inpatient Days.—

(1) Repeals limitations on number of covered inpatient days.

(2) Specifies that the psychiatric carryover restriction applies for the period beginning on the first day of Medicare entitlement and ending at the end of the first

period of 60 consecutive days on which the individual is not receiving inpatient psychiatric hospital services. The 150-day limitation is retained.

(c) Coinsurance.—Repeals coinsurance requirements, including, those required for emergency hospital services provided by a hospital that does not participate in Medicare.

(d) Part A Premium.—Requires the Secretary in September of each year (beginning in 1987), to establish the Part A monthly premium amount for the following year equal to the estimated actuarial value of the Part A benefit for such year (rounded to the nearest dollar). The actuarial value equals one-twelfth of the estimated average per capita amount payable from the Federal Hospital Insurance Trust Fund for services and related administrative costs incurred with respect to persons aged 65 and over for Part A benefits for the entire year. The Secretary is required, when the premium amount is promulgated, to issue a public statement setting forth the actuarial assumptions and bases employed in arriving at an adequate actuarial rate.

(e) Adjustment in PPS Payment Rates.—Requires the Secretary (when adjusting payment rates for PPS and non-PPS hospitals, the target amounts, the weighting factors, and the outlier cutoff points), when appropriate, to take into account reductions in beneficiary payments to hospitals resulting from the repeal of the day limitation on inpatient hospital services.

Effective date.—(a) Applies to the deductible for 1988 and succeeding years. (b) and (c) apply to inpatient hospital services furnished on or after January 1, 1988. (d) Applies to premiums for months beginning with January 1, 1988. Conforming amendments effective January 1, 1988. (e) Effective on enactment.

Senate amendment

(a) Deductible/Spell of Illness.—Similar provision, except limited to persons covered under both Part A and Part B. The deductible applies to the first "period of hospitalization" beginning in a calendar year. "Period of hospitalization" is defined as beginning on the first day the individual is furnished inpatient hospital services and ending on the date of discharge from the hospital (or, in the case of a transfer, hospitals) involved.

Eliminates "spell of illness" for persons covered under both Parts A and B.

Specifies that beneficiaries whose period of hospitalization (for which a deductible is imposed) begins during December of a calendar year would not be required to pay an additional deductible for a hospitalization beginning in January of the following year.

(b) Limitation on Covered Inpatient Days.—

(1) Similar provision, except limited to persons covered under both Parts A and B.

(2) Repeals psychiatric carryover restriction for persons covered under both Parts A and B.

(c) Coinsurance.—Similar provision, except limited to persons covered under both Parts A and B. Coinsurance requirements for services furnished outside the United States are also eliminated for these persons.

(d) Part A Premium.—No provision.

(e) Adjustment in PPS Payment Rates.—No provision.

Effective date.—Applies to items and services furnished after December 31, 1987, Beneficiaries (covered under both Parts A and B) whose spell of illness begins before January 1, 1988 and whose period of hospitalization included in that spell of illness begins on or after January 1, 1988 and before February 1, 1988 would not have an inpatient hospital deductible imposed for that period of hospitalization.

(a) *Deductible/Spell of Illness.*—The conference agreement includes the House provision with an amendment. The agreement provides that a beneficiary, whose period of hospitalization (for which a deductible is imposed) begins during December of a calendar year, would not be required to pay an additional deductible for a hospitalization beginning in January of the following year.

The agreement provides that, if the Secretary terminates a contract with a health maintenance organization (HMO) or competitive medical plan (CMP) during a year, no inpatient hospital deductible will be imposed for the remainder of the year on a beneficiary who can demonstrate that he or she, while enrolled in the organization during the year, had an inpatient hospital admission paid for by the HMO or CMP.

(b) *Limitation on Covered Inpatient Days.*—The conference agreement includes the House provision.

(c) *Coinsurance.*—The conference agreement includes the Senate amendment with an amendment deleting the requirement that individuals be enrolled in both Parts A and B.

(d) *Part A Premium.*—The conference agreement includes the House provision with an amendment specifying that the Secretary is first required to establish the monthly premium in September of 1988 which will be in effect for calendar year 1989.

(e) *Adjustment in PPS Payment Rates.*—The conference agreement includes the House provision with an amendment. Under the agreement, the Secretary shall adjust the target amounts for each non-PPS hospital to reflect reductions in beneficiary payments to hospitals resulting from the enactment of this legislation.

(f) *Chronic Ventilator-Dependent Units in Hospitals.*—The conference agreement includes a provision requiring the Secretary to establish up to five demonstration projects for up to three years each to review the appropriateness of classifying chronic ventilator-dependent units in hospitals as rehabilitation units. The Secretary is authorized to treat such units as rehabilitation units for reimbursement purposes.

The conferees expect that the Secretary will establish criteria for the demonstration projects which will assure that (1) the units will serve patients who have recently undergone tracheostomy and are newly ventilator-dependent; (2) there is reasonable expectation at admission that the patient will be able to return home or to the community at discharge; (3) the major diagnoses of patients will include spinal cord injury, head trauma, advanced lung disease, Guillain-Barre syndrome, muscular dystrophy—Duchenne type, polyomyositis and dermatomyositis, and phrenic nerve paralysis secondary to surgical trauma; (4) the rehabilitation programs within the units will include physical therapy, patient and family instruction in the use of ventilator equipment, self-suctioning and medications, and psychological counseling; (5) expected length of stay within the units will be typically two to four months; and (6) other factors which the Secretary finds relevant.

In establishing the demonstrations the Secretary is required to consult with the Prospective Payment Assessment Commission. In addition, the conferees expect that the Secretary will consult with appropriate professional groups such as the American Thoracic Society and the American College of Chest Physicians.

Effective date.—The Conference agreement applies to the deductible for 1989 and succeeding years. Other provisions apply to care and services occurring on or after January 1, 1989, except that (d) is effective and applies to premiums for January 1989 and succeeding months and (e) is effective for PPS hospital discharges on or after January 1, 1989, and for non-PPS hospitals, for cost reporting periods beginning on or after October 1, 1989.

3. Extended Care Service (Section 102 of House bill; Sections 2 and 3 of Senate amendment)

Present law

(a) Coinsurance.—Beneficiaries are required to pay a daily coinsurance charge (equal to one-eighth of the inpatient hospital deductible) for days 21–100 of post-hospital extended care services furnished during each spell of illness.

(b) Limitation on Covered Days.—The program covers up to 100 days of post-hospital extended care services in a spell of illness.

(c) Prior Hospitalization Requirement.—In order to have payment made for extended care services, the beneficiary must have been an inpatient of a hospital for at least three consecutive calendar days and have been transferred to a participating SNF usually within 30 days. The law has authorized the Secretary to provide coverage for extended care services in a SNF without regard to the 3-day prior hospitalization requirement when he determines that such coverage will not lead to an increase in cost and will not alter the acute nature of the benefit; however, this provision has not been implemented.

House bill

(a) Coinsurance.—

(1) Eliminates current coinsurance requirements. Imposes a daily coinsurance charge for days 1–7 of post-hospital extended care services furnished in a calendar year.

(2) Requires the Secretary, before September 1 of each year (beginning in 1987), to estimate the national average per diem reasonable cost recognized under Part A for post-hospital extended care services which will be furnished in the succeeding calendar year. In September of each calendar year (beginning in 1987) the Secretary is required to promulgate the coinsurance amount for the following year. The amount equals 20 percent (rounded to the nearest $0.50) of the national average per diem reasonable cost estimated by the Secretary. The reference to "post-hospital" is deleted beginning January 1, 1989.

(b) Limitation on Covered Days.—Provides coverage for 150 days of extended care services in a calendar year.

(c) Prior Hospitalization Requirement.—Eliminates prior hospitalization requirement and reference to authority to provide coverage without regard to this requirement.

(d) Spell of Illness.—Repeals spell of illness concept.

Effective date.—Applies to extended care services furnished on or after January 1, 1988, except that elimination of prior hospitalization requirements (and related conforming changes) apply to extended care services furnished pursuant to an admission

to a SNF occurring on or after January 1, 1989.

Senate amendment

(a) Coinsurance.—

(1) Similar provision, except limited to persons covered under both Parts A and B. The daily coinsurance charge is imposed on the first 10 days the beneficiary is furnished extended care services during any stay in a skilled nursing facility (SNF), but in no event can a coinsurance amount be imposed for more than 10 days in a calendar year.

(2) Similar provision, except coinsurance equals 15 percent (rounded to the nearest $1.00) of the estimated amount. Eliminates reference to "post-hospital".

(b) Limitation on Covered Days.—Similar provision, except limited to persons covered under both Part A and Part B.

(c) Prior Hospitalization Requirement.—Similar provisions, except limited to persons covered under both Parts A and B.

(d) Spell of Illness.—Similar provisions, except limited to persons covered under Parts A and B.

Effective date.—Applies to extended care services furnished after December 31, 1987. For beneficiaries receiving post-hospital extended care services on December 31, 1987, current law provisions will continue to apply until the spell of illness has ended.

Conference agreement

(a) *Coinsurance.*—The conference agreement includes the House provisions with a modification. The agreement provides that coinsurance charges are to be imposed on the first eight days of extended care services in a calendar year. The amount of the coinsurance is equal to 20% (rounded to the nearest $0.50) of the estimated national average per diem reasonable cost recognized under Part A of Medicare for extended care services.

The agreement extends the current coverage of extended care services in a Christian Science sanatoria from a maximum of 30 days per benefit period to 45 days per calendar year. As under current law, coinsurance would be applied for each day of covered care.

(b) *Limitation on Covered Days.*—The conference agreement includes the Senate amendment with an amendment deleting the requirement that individuals be enrolled in both Parts A and B.

(c) *Prior Hospitalization Requirement.*—The conference agreement includes the House provision.

(d) *Spell of Illness.*—The conference agreement includes the Senate amendment with amendments. The requirement that individuals be enrolled in both Parts A and B is deleted. Beneficiaries whose "spell of illness" began before January 1, 1989, and had not yet ended as of such date, would not be required to pay an additional hospital deductible for that spell of illness in 1989 and 1990.

Effective date.—The conference agreement applies to extended care services furnished on or after January 1, 1989.

4. Hospice Care (Section 103 of House bill; Section 12 of Senate amendment)

Present law

A beneficiary who is terminally ill may elect to receive hospice services for two 90-day periods and one subsequent 30-day period for a total of 210 days during his lifetime. Beneficiaries making this election must choose to receive services through a hospice and give up most other Medicare benefits.

House bill

Provides for a subsequent extension period beyond the current 210-day limit, if the beneficiary is recertified as terminally ill by the medical director or the physician member of the interdisciplinary group of the hospice program.

Effective date.—Applies to hospice care furnished on or after January 1, 1988.

Senate amendment

Similar provision.

Effective date.—Applies with respect to services furnished on or after date of enactment.

Conference agreement

The conference agreement includes the House provision with an amendment to further extend the favorable presumption under the waiver of liability provision for hospice care through October 1990.

Effective date.—The conference agreement applies to hospice care furnished on or after January 1, 1989.

5. Blood Deductible (Section 104 of House bill; Section 3 of Senate amendment)

Present law

Payment may not be made under Part A for the first 3 pints of whole blood (or equivalent quantities of packed red blood cells, as defined in regulations) furnished to a beneficiary during a spell of illness. A similar deductible is applied under Part B on a calendar year basis. Under Part B, the deductible (in accordance with regulations) is appropriately reduced to the extent that there has been a replacement of such blood (or equivalent quantities of packed red blood cells). For these purposes, blood furnished to an individual is deemed to be replaced when the institution or other person furnishing blood is given one pint of blood for each pint of blood furnished such individual for which the deductible is applicable.

The Part A and Part B blood deductibles are applied separately.

House bill

Specifies that the Part A blood deductible is applied on a calendar year basis. Replacement provisions (identical to those specified for Part (B) are added to Part A. The Part A blood deductible is to be reduced by any blood deductible imposed with respect to Part B.

Specifies that in the case of a beneficiary whose spell of illness begins before January 1, 1988 (and ends after that date), any Part A blood deductible required would be reduced during that spell of illness (during 1988 or 1989) to the extent that a Part A blood deductible had already been imposed for that spell of illness.

Effective date.—Applies to blood or blood cells furnished on or after January 1, 1988.

Senate amendment

Specifies that the Part A blood deductible is to be applied on a calendar year basis for persons covered under both Parts A and B.

Effective date.—Applies to items and services finished after December 31, 1987.

Conference agreement

The conference agreement includes the House provision. *Effective Date.*—The conference agreement applies to blood or blood cells furnished on or after January 1, 1989.

6. Home Health Benefits (Section 105 of House bill)

Present law

Home health services are covered under Parts A and B. Payments for home health services are always made under Part A except in cases where the beneficiary is enrolled under Part B, but is not entitled to Part A. In these cases, payment is made under Part B.

House bill

Provides that payments for home health services are to be made under Part A only in cases where the individual provided the services is not entitled to Part B in that month. Otherwise, payments are to be made under Part B.

Effective date.—Applies to home health services furnished on or after January 1, 1989.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision.

7. Imposition of Supplemental Medicare Premium (Section 106 of House bill; Sections 6 and 27 of Senate amendment)

Present law

(a) and (b) In General and Applicability.—The following individuals are eligible for coverage under the Hospital Insurance (Part A) program of Medicare without payment of any premium: (1) those who have attained age 65 and are eligible for monthly Social Security retirement or survivor benefits, (2) individuals of any age who have been entitled for not less than 24 months to Social Security or Railroad Retirement benefits on the basis of disability (and certain related individuals), (3) individuals of any age who have end-stage renal disease, and (4) certain Federal, State, and local Government employees who have attained age 65. Individuals age 65 or over who are not entitled to Part A benefits because they do not meet the above conditions may enroll in Part A if they pay a monthly premium.

All individuals age 65 and older may elect to enroll in the Supplementary Medical Insurance (Part B) program of Medicare by paying a monthly premium, which is $24.80 in 1988. Individuals who have not attained age 65 but who are eligible for the Part A program by virtue of disability or end-stage renal disease may also elect to enroll in Part B by paying the monthly premium.

(c) Premium Amount.—No provision.

(d) Calculation for Governmental Retirees.—Currently, the pensions of most government retirees are, for the most part, treated as income subject to taxation, while Social Security benefits are tax-exempt unless they exceed a certain threshold (i.e., if adjusted gross income plus 50 percent of the Social Security benefit exceeds $25,000 for individuals, or $32,000 for married couples filing joint returns). These differences in tax treatment of pension income result in larger adjusted gross incomes and tax liabilities for government retirees than for retirees with Social Security.

(e) Premium Indexing.—No provision.

(f) Maximum Supplemental Premium.—No provision.

(g) Joint Returns.—Provides rules for the filing of joint returns for married individuals under section 6013 of the Internal Revenue Code of 1986.

(h) Coordination with Tax Code Provisions.—Section 213 of the Internal Revenue Code of 1986 provides that expenses for medical care (including prescribed drugs or insulin), not compensated for by insurance or otherwise, may be deducted for Federal income tax purposes to the extent that they

exceed 7.5 percent of adjusted gross income. Medical care includes insurance payments and Medicare Part B premiums.

House bill

(a) In General.—Amends the Internal Revenue Code of 1986 to impose an annual income-related supplemental premium on Medicare-eligible individuals (generally, those entitled to Part A who file a Federal tax return, except (1) individuals required to pay a premium for Part A coverage, (2) residents of U.S. possessions, and (3) qualified nonresidents) for each taxable year.

(b) Applicability.—Defines a "Medicare-eligible individual" who is liable for payment of the supplemental Medicare premium as an individual who, in any month, is entitled to (or, on application without the payment of an additional premium, would be entitled to) benefits under Part A of Medicare for such month. Provides for the following exceptions: (1) individuals entitled to Part A benefits solely by reason of the payment of the Part A premium, (2) residents of U.S. commonwealths and territories who pay a special Part B premium and individuals who are enrolled under Part B but are not entitled to benefits under Part A, and (3) qualified nonresidents.

Defines a "qualified nonresident" as an individual who: (1) is not furnished any service for which payment was or will be made under Medicare Part A during the taxable year or any of the 4 preceding taxable years, (2) is not entitled to benefits under Medicare Part B at any time during the taxable year or any of the 4 preceding taxable years, and (3) is present in a foreign country or countries for at least 330 full days during the 12-month period ending at the close of the taxable year and each of the 4 consecutive preceding 12-month periods. An individual who dies during the taxable year is treated as meeting the 330-day test in that year if the individual spent at least 90 percent of the days before the date of death as full days in a foreign country or countries.

Provides that an individual (other than a nonresident alien) who has attained age 65 will be treated as a Medicare-eligible individual for the month in which he attains age 65 and any subsequent month unless he establishes to the satisfaction of the Secretary that he is not a Medicare-eligible individual for the month concerned.

(c) Premium Amount.—

Provides that for 1988, the premium is as follows:

If the adjusted gross income for the taxable year is: Over:	But not over:	The annual premium for the taxable year is:
$0	$6,000	$0
6,000	6,143	10
6,143	6,287	20
6,287	6,430	30
6,430	6,573	40
6,573	6,716	50
6,716	6,860	60
6,860	7,003	70
7,003	7,146	80
7,146	7,289	90
7,289	7,433	100
7,433	7,576	110
7,576	7,719	120
7,719	7,862	130
7,862	8,006	140
8,006	8,149	150
8,149	8,292	160
8,292	8,436	170
8,436	8,579	180
8,579	8,722	190
8,722	8,865	200
8,865	9,009	210
9,009	9,152	220
9,152	9,295	230
9,295	9,438	240
9,438	9,582	250
9,582	9,725	260
9,725	9,868	270
9,868	10,011	280
10,011	10,155	290
10,155	10,298	300
10,298	10,441	310
10,441	10,585	320
10,585	10,728	330
10,728	10,871	340
10,871	11,014	350
11,014	11,158	360
11,158	11,301	370
11,301	11,444	380
11,444	11,587	390
11,587	11,731	400
11,731	11,874	410
11,874	12,017	420
12,017	12,160	430
12,160	12,304	440
12,304	12,447	450
12,447	12,590	460
12,590	12,734	470
12,734	12,877	480
12,877	13,020	490
13,020	13,163	500
13,163	13,307	510
13,307	13,450	520
13,450	13,593	530
13,593	13,736	540
13,736	13,880	550
13,880	14,023	560
14,023	14,166	570
14,166		580

Provides that if an individual is not a Medicare-eligible individual for each month during the taxable year, the annual premium determined from the above table would be prorated based on the number of months an individual is a Medicare-eligible individual during the taxable year. A similar rule applies in the case of a taxable year of less than 12 months, except that the individual's adjusted gross income for the taxable year would be annualized.

(d) Calculation for Governmental Retirees.—No provision.

(e) Premium Indexing.—

(1) In General.—Requires the Secretary of the Treasury, not later than December 15 of 1988 and each subsequent calendar year, to prescribe a table of the supplemental premium amounts which will apply, instead of the 1988 table, with respect to taxable years beginning in the succeeding calendar year.

Requires that each premium dollar amount in the 1988 table be increased by the sum of the Medicare inflation factor and the prescription drug factor for the calendar year, and each other dollar amount in the table (i.e., the bracket amount and the threshold amount) be increased by the cost-of-living adjustment used to index the income tax brackets. If any increase is not a mulitple of $1, it is to be rounded to the nearest multiple of $1.

(2) Catastrophic Coverage Benefit.—Provides that the Medicare inflation factor is the percentage (if any) by which the Medicare value for a calendar year exceeds the Medicare value for 1988. The Medicare value for any calendar year is the sum for January of such year of (a) 50 percent of the monthly actuarial rate promulgated under section 1818(d)(1) of the Social Security Act for such month (i.e., the Medicare Part A value), and (b) the excess of twice the monthly Part B actuarial rate under section 1839(a)(1) of the Social Security Act, over the amount of the monthly Part B premium under section 1839 (i.e., the Medicare Part B value).

(3) Prescription Drug Benefit.—Provides that the prescription drug factor for 1988 is zero percent, for 1989 is 5.5 percent, and subsequent years is determined as follows: The Secretary of the Treasury in September of each year (beginning with 1989) is required to determine a percent estimated to be necessary so that the total amount of supplemental premiums attributable to the prescription drug factor estimated to be collectible in the next year is equal to 25 percent of the total of the benefits and related administrative costs estimated by the Secretary of HHS under new section 1839(g)(2)(C) of the Social Security Act to be necessary to pay for covered outpatient drugs in the next year.

Requires the Secretary of the Treasury in September of each year (beginning with 1991) to determine whether the amount of the supplemental premium attributable to the prescription drug factor estimated to be collectible (for taxable years beginning in calendar years after 1988 and before the previous calendar year) is greater or less than 25 percent of the total benefits and administrative costs paid for covered outpatent drugs.

If there is a surplus or deficit, the Secretary of the Treasury is required to adjust the prescription drug factor so as to reduce or increase, respectively, the aggregate amount of the additional premiums which are estimated to be collected by the amount of the surplus or deficit, taking into account the effect of any previous adjustments.

Provides that, notwithstanding the adjustment described above, the prescription drug factor for a year after 1990 cannot exceed 120 percent of such factor for the previous year.

(f) Maximum Supplemental Premium.—Provides that the maximum supplemental premium in 1988 is $580. The Joint Committee on Taxation estimates that the maximum supplemental premium in future years would be: for the taxable year beginning in 1989, $737; in 1990, $842; in 1991, $934; and in 1992, $1,017.

(a) Joint Returns.—Provides that in the case of a joint return, the premium amounts according to the table are applied separately to each spouse, and the adjusted gross income of each spouse is one-half of their combined adjusted gross income.

(h) Coordination with Tax Code Provisions.—

(1) Medical Expense Deduction.—Provides that the supplemental premium cannot be treated as a medical expense for purposes of section 213 of the Internal Revenue Code of 1986.

(2) Not Treated as a Tax for Certain Purposes.—Provides that the supplemental premium is not treated as a tax imposed by chapter 1 (income taxes) of the Internal Revenue Code of 1986 for purposes of determining the amount of any credit allowed under that chapter or the amount of the alternative minimum tax imposed by section 55.

(3) Treated as a Tax for Subtitle F.— Provides that the supplemental premium is treated as if it were an income tax for administrative purposes, such as estimated payments and collection.

(4) Section 15 Not to Apply.—Provides that section 15 (procedures for applying changes in tax rates) does not apply to the supplemental premium.

(i) Reporting Requirements.—Requires the Secretary of HHS to make a return to the Secretary of the Treasury (at such time and in such form as determined by the Secretary of the Treasury) stating the name, address, and taxpayer identification number of each individual entitled to Medicare Part A benefits for any month during the calendar year and the number of months so entitled. The provision does not apply with respect to those who pay a premium under section 1818 for Part A coverage, residents of U.S. commonwealths and territories paying a special Part B premium, and individuals enrolled under Part B but not entitled to benefits under Part A.

(j) Transfer to Trust Funds.—No provision.

Effective date.—Applies to taxable years beginning after December 31, 1987.

Senate amendment

(a) In General.—Amends the Social Security Act to require individuals covered by Medicare Part B to pay an annual income-related supplemental premium if their Federal tax liability for taxable years is not less than $150.

(b) Applicability.—Provides that any individual who is covered by Medicare Part B for any portion of any taxable year occurring after December 31, 1987, and who has Federal income tax liability for such taxable year in an amount not less than $150 must pay the applicable supplemental premium.

(c) Premium Amount.—Provides that the "applicable supplemental premium" equals the number of months in the taxable year during which the individual was covered by Part B, multiplied by the supplemental premium. The "supplemental premium" is defined as the premium rate for the taxable year ($1.09 for the 1988 taxable year), multipled by the amount determined by dividing the individual's adjusted Federal income tax liability for the taxable year by $150.

If the latter amount is not a whole number, it is to be rounded to the next lowest whole number.

(d) Calculation for Governmental Retirees.—For purposes of calculating the supplemental premium, defines "Federal income tax liability" as the tax imposed by chapter 1 (income tax) of the Internal Revenue Code of 1986, reduced by credits allowed under part IV of subchapter A, excluding the following refundable credits: Section 31 (wage withholding for income tax purposes); section 33 (tax withheld at source on nonresident aliens and foreign corporations); and section 34 (certain uses of gasoline and special fuels).

For purposes of calculating the supplemental premium, defines "adjusted Federal income tax liability" as an amount equal to Federal income tax liability, reduced by the following amount. The reduction is the excess (if any) of:

(1) 15 percent of the lesser of (a) the qualified Social Security exclusionary amount, or (b) the amount received as an annuity (whether for a period certain or during 1 or more lives) under a governmental plan which is includible in gross income under section 72 of the Internal Revenue Code of 1986, over

(2) the amount of credit allowed under the tax credit for the elderly and the permanently and totally disabled (section 22 of the Internal Revenue Code of 1986).

Defines "qualified Social Security exclusionary amount" as the excess (if any) of $6,000 ($9,000 in the case of married individuals filing a joint tax return) over the Social Security benefits (as defined in section 86(d) of the Internal Revenue Code of 1986) received during the taxable year. For taxable years beginning after Dec. 31, 1988, the $6,000 and $9,000 amounts are increased from the previous year's amounts by the Social Security cost-of-living adjustment for the calender year in which the taxable year begins.

(e) Premium Indexing.—

(1) In General.—Provides that the premium rate for any taxable year (beginning in a calendar year after 1988) is the previous year's rate, increased or decreased by (a) the premium rate adjustment used to index the monthly catastrophic coverage premium amount in years after 1988, and (b) the drug premium rate adjustment (for taxable years beginning in calendar years after 1989).

(2) Catastrophic Coverage Benefit.—The premium rate adjustment used to update the monthly catastrophic coverage premium amount is:

(a) the percentage (if any) necessary to increase the estimated total revenues collectable from the monthly catastrophic coverage premiums and the supplemental premiums (determined without regard to the drug premium rate adjustment amount) so that they equal the estimated total catastrophic coverage benefits and related administrative costs (including administrative costs for outpatient drug coverage), plus

(b) for calendar years before 1993, the percentage necessary to establish before 1993 a contingency fund equal to 20 percent or, if greater, a reserve fund equal to 5 percent.

(3) Prescription Drug Benefit.—Provides that the drug premium rate adjustment for taxable years beginning in a calendar year after 1989 is an amount equal to:

(a) 50 percent (60 percent for calendar year 1990 and 55 percent for calendar year 1991, as provided in Section 27 of the bill) of the modified per enrollee actuarial catastrophic drug benefit amount for that year plus

(b)(1) for any taxable year beginning in calendar year 1990, an amount necessary to cover 7.5 percent of the modified per enrollee actuarial catastrophic drug benefit amount for 1991, and

(2) for taxable years beginning in calendar years after 1990, an amount (when added to any unexpended amount determined for any preceding year) necessary to cover 7.5 percent of the modified per enrollee actuarial catastrophic drug benefit amount for the calendar year.

Defines "modified per enrollee actuarial catastrophic drug benefit amount" to mean (a) the total catastrophic drug coverage benefits and related administrative costs estimated to be paid in cash outlays from the Federal Catastrophic Drug Insurance Trust Fund divided by the total number of individuals estimated to be enrolled under Part B for the year, or (b) the reestimated per enrollee actuarial catastrophic drug benefit amount that reflects any adjustment the Secretary may make to the drug coverage benefit because the drug benefit premium amount was determined to exceed the premium limit for that year.

(f) Maximum Supplemental Premium.—Provides that the applicable supplemental premium for any individual cannot exceed the number of months in the taxable year the individual was covered by Part B divided by 12, multiplied by the appropriate amount, as follows: for the taxable year beginning in 1988, $800; in 1989, $850; in 1990, $900; in 1991, $950; and in 1992, $1,000.

For taxable years beginning in a calendar year after 1992, the applicable supplemental premium cannot exceed 65 percent of the product of the number of months in the taxable year the individual was covered by Part B, multiplied by the excess of:

(a) the sum of (1) 200 percent of the monthly actuarial basic rate for Part B enrollees age 65 and over (i.e., 200 percent of one-half of the benefit and administrative costs, including a contingency margin, payable for the aged from the Part B trust fund for Part B costs excluding the catastrophic coverage), plus (2) the monthly per enrollee actuarial comprehensive catastrophic benefit amount (i.e., the estimated monthly catastrophic coverage benefits and related administrative costs payable from the Federal Catastrophic Health Insurance Trust Fund divided by the estimated number of Part B enrollees) for the calendar year, over

(b) the sum of the basic and catastrophic monthly premiums for the year, determined without regard to current and new certain hold harmless provisions (which provide limits to any increases in the Part B and catastrophic premiums based on cost-of-living increases in Social Security benefits).

(g) Joint Returns.—Provides that for married individuals (as defined in section 7703 of the Internal Revenue Code of 1986), the supplemental premium is determined by treating such individuals as one individual if they: (1) file a joint return (under section 6013 of such Code) and (2) one or both of them are covered by Part B for any portion of the taxable year and have Federal income tax liability of not less than $150. The number of months of Part B coverage is determined according to the spouse covered for the longer period during the taxable year. When married individuals are treated as one individual in order to calculate the supplemental premium, the limit on such premium equals the sum of the limits computed separately for each spouse.

(h) Coordination With Tax Code Provisions.—

(1) Medical Expense Deduction.—Provides that the supplemental premium is treated as a premium paid under Medicare Part B in the taxable year following the taxable year to which the premium relates for purposes of section 213(d)(1)(C) of the Internal Revenue Code of 1986.

(2) Not Treated as a Tax for Certain Purposes.—Similar provision.

(3) Treated as a Tax for Subtitle F.—Similar provision.

(4) Section 15 Not to Apply.—Similar provision.

(i) Reporting Requirements.—Requires that the Secretary of HHS include on the current return to the Secretary of the Treasury relating to Social Security benefits, the number of months any individual is covered under Medicare Part B for the calendar year. Requires the Secretary of HHS to include on the statements sent to Social Security beneficiaries information on the name of the agency making the determination and the number of months of coverage under Medicare Part B.

(j) Transfer to Trust Funds.—Requires the Secretary of the Treasury, from time to time, to transfer from the general fund of the Treasury to the Federal Catastrophic Health Insurance Trust Fund amounts equal to the aggregate monthly supplemental premiums paid (excluding the drug premium rate adjustment), plus the amount the Secretary of the Treasury estimates Federal outlays are reduced under the Medicaid program because of the catastrophic provisions of this bill (after taking into account the provisions of Section 14 of the bill related to Medicaid savings and State re-

quirements). Such transfers are to be appropriately adjusted to the extent that prior transfers were in excess of or less than amounts required to be transferred.

Also requires the Secretary of the Treasury, from time to time, to transfer from the general fund of the Treasury to the Federal Catastrophic Drug Insurance Trust Fund amounts equal to the aggregate drug premium rate adjustment paid, adjusted to the extent that prior transfers were in excess of less than the amounts required to be transferred.

Effective date.—Applies to taxable years ending after December 31, 1987. The supplemental premium rate for any taxable year beginning before 1988 and ending after December 31, 1987, is the rate applicable to 1987.

Conference agreement

(a) *In General.*—Under the conference agreement, medicare Part A eligible individuals are required to pay a new tax-related supplemental premium. The supplemental premium is intended to provide approximately 63 percent of catastrophic coverage and prescription drug benefit financing on a calendar year liability basis, with flat monthly premiums financing the remaining 37 percent (subject to limitations on increases and decreases in the supplemental premium, described below).

The supplemental premium is drafted in the tax Code, collected with income tax payments, and after 1989 subject to income tax estimated payments. Medicare Part A eligible individuals with less than $150 of income tax liability are exempt from the supplemental premium.

To reduce confusion among beneficiaries, the conferees intend that the Secretary of the Treasury is to (1) implement the supplemental premium in an easy to understand manner (including the use of premium tables in lieu of taxpayer calculations, and separate tables as necessary for government retirees), (2) identify the supplemental premium on the applicable forms, worksheets, tables, and instructions as a premium to pay for a portion of the cost of new medicare catastrophic and prescription drug coverage, and (3) seek comments and advice from medicare enrollees and their representatives regarding the design of such forms, worksheets, tables, and instructions.

(b) *Applicability.*—The definition of medicare Part A eligible individuals generally follows the House bill, except that no special proration rule is provided for residents of U.S. commonwealths and territories. Residents of U.S. commonwealths and territories who do not have U.S. income tax liability are not subject to the supplemental premium. An individual is liable for the supplemental premium if such individual is medicare Part A eligible for more than 6 full months during the taxable year and has $150 or more of adjusted U.S. source income tax liability.

Unlike the House bill, individuals who attain the age of 65 during the taxable year are not presumed to be medicare eligible for the purposes of paying the supplemental premium. The conferees intend that the Internal Revenue Service will inform taxpayers that they are liable for the supplemental premium if they are eligible for Part A of Medicare even if they have not actually enrolled.

(c) *Premium Amount.*—For taxable years beginning before 1994, the supplemental premium rate is the sum of the catastrophic coverage and prescription drug premium rates shown below:

SUPPLEMENTAL PREMUIM RATES, 1989–93

[Per $150 of adjusted Federal income tax liability]

	Catastrophic coverage premium rate	Prescription drug premium rate	Total supplemental premium rate
Year in which taxable year begins:			
1989	$22.50	$0	$22.50
1990	27.14	10.36	37.50
1991	30.17	8.83	39.00
1992	30.55	9.95	40.50
1993	29.55	12.45	42.00

The supplemental premium is to be determined under tables (similar to the income tax tables) prescribed by the Secretary of the Treasury which may provide income tax liability brackets of less than $150.

For purposes of computing the supplemental premium, adjusted Federal income tax liability is defined as under the Senate amendment.

The conferees have determined these premium rates to raise sufficient revenue with reference to the tax rates and other important features of the tax Code that determine the liability of the medicare Part A eligible population. The conferees intend that if tax rates or these features are changed in future legislation, the premium rates should be recalibrated.

(d) *Calculation for Government Retirees.*—The Conference agreement generally follows the Senate amendment with changes designed to conform the adjustment for government retirees with the computation of the credit for the elderly and disabled. For government retirees, tax liability is adjusted by subtracting 15 percent of the excess (if any) of (1) the lesser of (i) $6,000 ($9,000 in the case of a joint return where both spouses are medicare eligible for more than 6 full months, and $4,500 for married individuals filing separate returns), or (ii) government annuities includible in gross income during the taxable year, the lower quantity then reduced by social security benefits received during the taxable year; over (2) the credit for the elderly and disabled allowable for the taxable year. After 1989, the $4,500, $6,000 and $9,000 amounts are increased by social security cost-of-living adjustments ("COLAs") determined for calendar years after 1989, and rounded to the nearest multiple of $50.

In the case of a joint return where only one spouse is medicare eligible for more than 6 full months during the taxable year, only government annuities attributable to such spouse are taken into account for purposes of the adjustment for government retirees. In the case of a married individual filing a separate return, such individual shall be treated as receiving not less than half of the social security benefits received by both spouses.

(e) *Premium Indexing.*—(1) *In general.* The method of indexing the supplemental catastrophic coverage and prescription drug premiums was selected by the conferees (1) to assure that premium receipts will be sufficient to pay for all catastrophic coverage and prescription drug benefits (i.e., budget neutrality), and (2) to minimize the Treasury Secretary's discretion over the adjustment of supplemental premium rates.

The indexing formula minimizes discretion by using information on prior year program costs and receipts, rather than subjective projections, and by limiting the amount by which the supplemental premium can be increased in any year.

The indexing machanism seeks to assure budget neutrality by several means: (1) prescription drug outlays may only be made from a new Federal Catastrophic Drug Insurance Trust Fund which is entirely financed by monthly and supplemental prescription drug premiums (and interest on fund balances); (2) monthly and supplemental catastrophic coverage premiums are increased to recoup with interest shortfalls in prior years (monthly premiums are increased to make up for any limitation on the increase in the supplemental premium); and (3) a contingency margin of at lest 20 percent is built into catastrophic coverage and prescription drug premiums.

For taxable years beginning after 1993, the supplemental premium rate is the sum of the adjusted catastrophic coverage premium rate and the adjustd prescription drug premium rate, subject to two limitations. The supplemental premium rate may not (1) be less than the rate in effect for the preceding year; and (2) be more than $1.50 per $150 of tax liability higher than the rate in effect for the preceding year. If either of these two limitations are applicable, the supplemental premium rate is allocated between the catastrophic coverage and prescription drug premium rates in proportion to the respective amounts of these premium rates without regard to the limitations.

(2) *Catastrophic coverage premium.*—The adjusted catastrophic coverage premium rate for any calendar year after 1993 is equal to the rate for the preceding calendar year, without regard to the two limitations on the supplemental premium described above in any prior year, adjusted by a percentage equal to the sum of the outlay-premium and reserve account percentages.

The outlay-premium percentage is designed to index the supplemental catastrophic coverage premium rate by the difference between the projected growth rates of catastrophic coverage outlays and premiums. For years after 1993, growth in outlays and premiums is projected by a formula which uses data available for the second and third preceding years, plus more recent information on trends in the consumer price index.

The outlay-premium percentage for any calendar year is (1) the percentage change in per capita catastrophic outlays from the third to the second preceding calendar year; minus (2) the percentage change in per capita catastrophic coverage premium liability from the third to the second preceding calendar year (determined as if the supplemental premium rate had not changed from the third to the second preceding year).

The per capita catastrophic outlay for any calendar year, as determined by the Secretary of HHS, is equal to outlays debited from the Medicare Catastrophic Coverage Account (the "Account," see section 17, below) for such year, divided by the average number of individuals entitled to receive Part A benefits during such year.

The per capita catastrophic coverage premium liability for any calendar year, as determined by the Secretary of the Treasury, is equal to supplemental premium liability attributable to the catastrophic coverage premium for taxable years beginning in such year, divided by the number of individuals who had premium liability for taxable years beginning in such year.

The outlay-premium percentage, described above, is adjusted up (or down) by 50 percent of the amount by which the consumer price index ("CPI") inflation rate in

the second preceding year exceeds (or is less than) one percentage point.

The CPI inflation rate for any year is defined as the percentage by which the CPI for May of such year exceeds such index for May of the preceding year. The CPI means the last CPI for all-urban consumers published by the Department of Labor, which is most consistent with the CPI for calendar year 1986.

The reserve account percentage is designed to adjust the supplemental catastrophic coverage premium rate to recoup 63 percent of any cumulative shortfall or deficit in the catastrophic coverage program (the other 37 percent is recouped by a corresponding adjustment in the flat premium). For years after 1993, the shortfall or surplus in the catastrophic coverage program is determined from data available for the second preceding year.

The reserve account percentage for any calendar year is the ratio of (1) the change in the catastrophic coverage premium rate for the second preceding year which the Secretary determines would have increased (or decreased) supplemental premium liability for such year by an amount equal to 63 percent of the shortfall (or surplus) in the Account in such year, over (2) the catastrophic coverage premium rate for the preceding calendar year, without regard to the two limitations on the supplemental premium described above.

The shortfall (or surplus) in the Account for any calendar year is determined as (1) 20 percent of catastrophic outlays debited against the Account; minus (2) the Account balance at the end of such year (including flat and supplemental premium increase amounts attributable to reserve account percentages in prior years that have not yet been credited to the account.

(3) *Prescription Drug Premium.*—The adjusted prescription drug premium rate for any calendar year after 1993 is equal to the rate for the preceding calendar year, without regard to the two limitations, described above, which may have applied to the supplemental premium for any prior year, adjusted by a percentage determined in a manner similar to the catastrophic coverage premium, with the following changes: (1) in determining the premium-outlay percentage, prescription drug outlays rather than catastrophic outlays are used; (2) in determining the reserve account percentage, the Federal Catastrophic Drug Insurance Trust Fund balance (see section 16, below) is used rather than the Account balance; (3) the reserve account percentage is 75 percent for 1994, 50 percent for 1995, and 25 percent for 1996 and 1997, instead of 20 percent; and (4) the outlay-premium percentage is deemed to be zero for calendar years before 1998.

For calendar years after 1992 the following procedure is to be followed for announcing supplemental premium rate changes. The Secretary of the Treasury shall: (1) not later than July 1, announce the preliminary increase in the supplemental premium for the following year; and (2) not later than October 1, announce the actual supplemental premium rates for the following year. (For additional detail see sections 16 and 17, below).

(f) *Maximum Supplemental Premium.*—For taxable years beginning before 1994, the maximum supplemental premium for an individual filing a single return is $800 in 1989, $850 in 1990, $900 in 1991, $950 in 1992, and $1050 in 1993.

For calendar years after 1993, the maximum supplemental premium is equal to such maximum in the preceding year (before rounding) increased by the percentage (if any) by which the medicare-part B value for the second preceding year exceeds such value for the third preceding year. The maximum supplemental premium is rounded to the nearest multiple of $50. The conferees designed the formula to maintain the maximum supplemental premium as a constant fraction of the value of Part B benefits not paid for by monthly premiums.

The medicare-part B value for any calendar year is defined as the excess of per capita Part B outlays the year over 12 times the generally applicable monthly Part B premium for months in such calendar year. Per capita Part B outlays are outlays from Part B of title XVIII of the Social Security Act divided by the average number of individuals covered under such part during the year. In computing the maximum supplemental premium for years before 1988, the medicare-Part B value is computed by excluding outlays and monthly premiums for covered outpatient drugs.

(g) *Joint and Separate Returns.*—(1) *Joint returns.*—In the case of a joint return where both spouses are medicare Part A eligible for more than 6 full months during the taxable year, such spouses are treated as a single individual, except that the maximum supplemental premium is twice the amount that applies for single returns.

In the case of a joint return where only one spouse is medicare eligible for more than 6 full months during the taxable year, income tax liability for the medicare-eligible spouse is determined as one-half of the tax liability of the joint return.

(2) *Separate Returns.*—In the case of a married individual filing a separate return who did not live apart from his or her spouse at all times during the taxable year, such individual is treated as medicare Part A eligible for 6 full months during the taxable year if the individual or the individual's spouse was so eligible. In addition, the maximum supplemental premium is twice the amount that applies for single returns if, without regard to this provision, both spouses are Medicare Part A eligible for 6 full months during the taxable year.

These rules are intended to prevent the supplemental premium from creating an incentive for separate filing.

(h) *Coordination with Tax Code Provisions.*—(1) *Medical expense deduction.*—As under the House bill, the supplemental premium is not deductible as an itemized medical expense.

(2) *Not treated as a tax for certain purposes.*—As under the House bill and the Senate amendment, the supplemental premium is not treated as an income tax for purposes of determining the amount of any tax credit or the amount of the alternative minimum tax. Revenues from the supplemental premium are not covered over to any possession of the United States, and the supplemental premium is not automatically reflected in the tax laws of territories that "mirror" the U.S. tax Code. In the case of a taxable years of less than 12 months, the supplemental premium shall be applied under regulations prescribed by the Secretary.

(3) *Treated as a Tax for Subtitle F.*—The supplemental premium generally is treated as if it were an income tax for administrative purposes, such as estimated payment and collection. The conference agreement provides that estimated tax penalties do not apply with respect to supplemental premium liability for taxable years beginning in 1989. The conferees intend that the Internal Revenue Service will where appropriate exercise its discretion to provide relief from estimated tax penalties in the first year in which an individual becomes liable for the supplemental premium (similar relief already is provided for newly retired or disabled individuals in sec. 6654(e)(3)(B)).

(4) *Section 15 Not to Apply.*—The supplemental premium is not treated as a change in income tax rate.

(i) *Reporting Requirements.*—The Secretary of HHS shall include in the existing return to the Secretary of the Treasury relating to social security benefits, a determination of whether any individual was medicare Part A eligible for more than 6 full months during the year. The Secretary of HHS is to include the same information on the statements sent to social security and railroad retirement beneficiaries, as well as the name of the agency which determines medicare eligibility.

The Secretary of HHS may provide such additional information to the Secretary of the Treasury as is required to assure compliance with the supplemental premium.

(j) *Transfer to Trust Funds.*—Receipts attributable to the supplemental prescription drug premium rate are appropriated to the CDI trust fund. The Secretary of the Treasury is to transfer these appropriated amounts from the general fund to the CDI trust fund not less frequently than monthly, and at the close of the calendar year, determined on the basis of estimates; adjustments are made in subsequent transfers to take account of estimating errors. For individuals paying the maxmium supplemental premium, receipts are allocated between the supplemental prescription drug and catastrophic coverage premiums pro rata on the basis of the respective premium rates.

Receipts attributable to the supplemental catastrophic coverage premium rate, which are not otherwise appropriated to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund (the "Reserve Fund") are appropriated to the SMI trust fund. The Secretary of the Treasury is to transfer these appropriated amounts from the general fund to the SMI trust fund not less frequently than monthly, and at the close of the calendar year, determined on the basis of estimates; adjustments are made in subsequent transfers to take account of estimating errors. For individuals paying the maximum supplemental premium, receipts are allocated between the supplemental prescription drug and catastrophic coverage premiums pro rata on the basis of the respective premium rates.

Effective date.—The supplemental premium is effective for taxable years beginning after December 31, 1988.

8. Delay in Organ Procurement Requirements (Section 26 of Senate amendment)

Present law

The Omnibus Budget Reconciliation Act of 1986 provided that Medicare payments for organ procurement would not be made unless: (a) the organ procurement agency involved met specified requirements and was designated by the Secretary as the sole procurement agency in its service area, and (b) hospitals establish protocols for making a routine inquiry for organ donation by potential donors, and are members of the National Organ Procurement and Transplantation Network.

Under the Omnibus Budget Reconciliation Act of 1986, these provisions were to be effective as of October 1, 1987. The Bal-

anced Budget and Emergency Deficit Control Reaffirmation Act of 1987 changed this effective date to November 21, 1987. The Omnibus Budget Reconciliation Act of 1987 entends the effective date for item (a) to March 31, 1988.

House bill

No provision.

Senate amendment

Extends to December 31, 1988, the date by which the Secretary must complete the organ procurement agency designation process, the effective date of the requirements for hospital protocols for organ procurement, and the effective date for requiring hospitals to be members of the National Organ Procurement Network.

Effective date.—Enactment.

Conference agreement

The conference agreement does not include the Senate provision. The conferees note that a related provision was included in the Omnibus Budget Reconciliation Act of 1987.

9. Limitation on Medicare Out-of-Pocket Expenses (Section 201 of House bill; Sections 4 and 29 of Senate amendment)

Present law

Under current law, beneficiaries are liable for specified cost-sharing charges, in form of deductibles and coinsurance amounts, in connection with their use of inpatient hospital, skilled nursing facility, and hospice services, and blood under Part A.

Beneficiaries enrolling in Part B are required to pay a monthly premium. The program generally pays 80 percent of the reasonable charge for physicians and other covered medical services (including immunosuppressive drugs furnished within one year of a covered organ transplant) after the beneficiary has met the $75 deductible. The beneficiary is liable for the remaining 20 percent of the reasonable charge (coinsurance). In addition, where a physician does not accept assignment (i.e., does not agree to accept Medicare's determination of reasonable charge amount as payment in full for covered services), the beneficiary is liable for the difference between Medicare's reasonable charge and the physician's actual charge (the "balance billed amount"). The beneficiary is also liable for a separate Part B deductible.

There is no upper limit on the amount of cost-sharing charges beneficiaries are required to pay in connection with covered Medicare services.

House bill

(a) In General.—Establishes an annual limit on beneficiary out-of-pocket expenses (not including balance billed amounts) for covered part B services.

b. Payment When Limit Has Been Reached.—Provides that if an individual has incurred out-of-pocket Part B expenses in a calendar year (beginning in 1989) equal to the Part B catastrophic limit for that year, the program will pay 100 percent of Part B reasonable charges (or costs) for covered Part B services (including physicians' services, ambulatory surgical center services, and dialysis services). In addition, after the beneficiary has reached the limit, no further blood deductible is required.

(c) Expenses Counting Toward the Catastrophic Limit.—Specifies that the following beneficiary expenses count toward the catastrophic limit:

(1) the Part B deductible, and blood deductible;

(2) Part B coinsurance charges; and

(3) a maximum of $250 in covered outpatient mental health expenses.

(d) Catastrophic Limit.—Specifies that the Part B catastrophic limit for 1989 is $1,043. The limit for any succeeding year is the limit for the preceding year increased by the Social Security cost-of-living adjustment (COLA), rounded to the nearest dollar. The Secretary is required to promulgate the Part B catastrophic limit by November 15 of each year (beginning with 1988) that will be in effect for the following year.

(e) Payments to Prepaid Health Plans Paid on a Reasonable Cost Basis.—Requires the Secretary to provide for an appropriate adjustment to payment rates for prepaid health plans paid on a reasonable cost basis to reflect the new catastrophic protection. The adjustment is to reflect: (1) the aggregate increase in payments which would otherwise be made for enrollees if they were not enrolled in the organization; or (2) the amount that would be paid to the organization or a facility if payments were made on an individual by individual basis. The organization is required to provide assurances, satisfactory to the Secretary, that it will not undertake to charge an individual during a year for covered services after the individual has reached the catastrophic limit (whether through the organization facility, or otherwise). [See Item 19(b)]

(f) Limitation on Charges When Catastrophic Limit Reached.—Specifies that providers (i.e., hospitals, skilled nursing facilities, comprehensive outpatient rehabilitation facilities, home health agencies, or hospice programs) with agreements with the Medicare program may not charge beneficiaries for services for which catastrophic benefit payments are made to the provider.

(g) Notice for Beneficiaries Reaching Catastrophic Limit.—Requires Medicare carriers to provide individuals, who have incurred sufficient out-of-pocket expenses, to qualify for catastrophic benefits, with a notice in a form appropriate for presentation to a physician. The notice is to: (1) state that the individual has reached the Part B catastrophic limit for the year; and (2) encourage the physician not to charge the individual amounts in excess of Medicare's reasonable charge and to accept payment on an assignment related basis for the remainder of the year.

(h) No provision.

Effective date.—Enactment (applies to items and services furnished after December 31, 1988).

Senate amendment

(a) In General.—Establishes an annual limit on beneficiary out-of-pocket expenses (not including balance billed amounts) for covered Part A and B services and entitles a Part B beneficiary to have payment made to him or on his behalf for specific catastrophic medical expenses.

(b) Payment When Limit Has Been Reached.—Provides for payment of 100 percent of catastrophic medical expenses. "Catastrophic medical expenses" are defined with respect to an individual for a calendar year (beginning with 1988) as any beneficiary cost sharing amounts incurred by an individual after the individual has incurred specific out-of-pocket medical expenses equal to the catastrophic limit. The program will pay beneficiary cost sharing amounts for: (1) the hospital deductible, SNF coinsurance charges, hospice coinsurance charges, and the Part A blood deductible; (2) the Part B deductible and Part B blood deductible; and (3) Part B coinsurance charges.

(c) Expenses Counting Toward the Catastrophic Limit.—Specifies that the following beneficiary expenses count toward the catastrophic limit:

(1) the Part A hospital deductible, SNF coinsurance charges, hospice coinsurance charges, and blood deductible;

(2) the Part B deductible and blood deductible;

(3) Part B coinsurance charges;

(4) amounts expended for qualified services for the prevention of illness or injury. A service meets this definition if:

(A) The service is one of the following: glaucoma screening by tonometry, cholesterol screening, a "Pap" test for detecting breast cancer, an immunization or booster for tetanus, influenza, or bacterial pneumonia, an occult blood stool test, or tuberculosis sensitivity testing;

(B) The service has not been provided to the beneficiary in the preceding 12 months; and

(C) The service is provided incident to a comprehensive physical which is performed by a physician, which includes a full history and other specified components, and which meets such other requirements as the Secretary may prescribe, including requirements to ensure a comprehensive approach for preventive health services.

Requires the Secretary to establish guidelines for the described preventive services no later than January 1, 1989.

(d) Catastrophic Limit.—Specifies that the Medicare catastrophic limit is $1,850 for 1988 and $2,030 for 1989. The limit for any succeeding year is the limit for the preceding year increased by the percentage, as determined by the Secretary, which will ensure that the percentage of Part B eligibles (other than those enrolled in HMOs or CMPs) whose out-of-pocket costs are projected to exceed the limit during that year will be the same as the percentage whose costs exceeded the limit in 1989. The Secretary is required to promulgate the limit by November 15 of each year (beginning with 1987) that will be in effect for the following year.

(e) Payments to Prepared Health Plans Paid on a Reasonable Cost Basis.—Similar provision. Adjustments in payment rates are also applicable for renal dialysis facilities. Assurances to the Secretary specify that the organization or facility will not charge the individual during a year for any catastrophic medical expense incurred during that year.

(f) Limitation on Charges When Catastrophic Limit is Reached.—Similar provision.

(g) Notice for Beneficiaries Reaching Catastropic Limit.—No provision.

(h) Beneficiary Costs of Catastrophic Insurance.—

(1) Findings.—States that the Senate finds that: (A) Medicare catastrophic insurance will provide beneficiaries with important and farreaching protection, greatly reducing out-of-pocket liability for those who incur high medical expenses; (B) the new benefits will be financed through premiums collected from all beneficiaries; (C) the Department has announced that the Part B premium will increase by 38.5 percent in January, 1988; (D) Medicare beneficiaries already are liable for Medicare premiums equal to 2.9 percent of their median income; and (E) it is the responsibility of Congress to ensure that the additional premiums for catastrophic coverage do not reach such

levels as to unreasonably increase the out-of-pocket liability of Medicare beneficiaries.

(2) Sense of the Senate.—Expresses that it is the sense of the Senate that conferees take all necessary steps to ensure that cost controls on new benefits, particularly coverage of prescription drugs, are sufficient to protect program integrity, prevent escalation of costs, and reduce amounts required for premium financing. In addition, it is the sense of the Senate that Senate conferees be instructed to take all feasible steps to minimize beneficiary costs by keeping premiums at the lowest possible level, ensuring that year-to-year premium increases are gradual and predictable, ensuring that the income related premiums do not unduly burden middle-income older Americans, and ensuring that the combined basic and supplemental premiums do not exceed the value of the program to beneficiaries.

Effective date.—(a)-(g) Applies to items and services furnished after December 31, 1987. In determining whether an individual has incurred out-of-pocket medical expenses in 1988 equal to the catastrophic limit, only expenses incurred on or after July 1, 1988, are taken into account. (h) Effective on enactment.

Conference agreement

(a) *In General.*—The conference agreement includes the House provision with an amendment.

(b) *Payment When Limit Has Been Reached.*—The conference agreement includes the House provision.

(c) *Expenses Counting Toward the Catastrophic Limit.*—The conference agreement includes the Senate amendment with a modification. The agreement does not include expenses for Part A cost-sharing, or for preventive services in the calculation of expenses counting toward the catastrophic limit.

The conference agreement, in section 204, provides coverage of screening mammography (including associated professional and technical services) effective January 1, 1990, subject to frequency limitations, quality standards, and special payment rules.

The agreement provides coverage for a biennial screening mammography for women aged 65 and over. For disabled women under age 65, a baseline screening would be available between age 35 and 40. Between ages 40 and 49, screenings would be available every other year, except that screenings could be provided each year for high risk women. Between ages 50 and 64 screenings could be provided on an annual basis.

The agreement requires the Secretary, in consultation with the Director of the National Cancer Institute, to review periodically the appropriate frequency for performing screening mammographies, based on age or other factors. The Secretary, on the basis of this review, may revise the frequency for covered screenings performed on or after January 1, 1992.

The agreement requires the Secretary to establish standards to assure the safety and accuracy of screening mammographies. The standards must include the following requirements: (i) the equipment used must be specifically designed for mammography and must meet radiologic standards established by the Secretary; (ii) the screening must be performed by an individual who is either licensed by the State to perform radiologic procedures or is certified as qualified to perform such procedures by an appropriate organization recognized by the Secretary; (iii) the results of the mammography must be interpreted by a physician who either is certified by the American Board of Radiology or is otherwise certified by a program recognized by the Secretary by regulation as assuring that the physician is qualified to interpret the results of screening mammography; and (iv) there must be assurances that the results of the first screening paid for by Medicare will be placed in permanent medical records maintained for the woman.

The conferees understand that a bilateral four-view procedure is currently considered to be the standard of care in the United States for screening mammography. The conferees therefore anticipate that this would be initially included in the quality standards to be developed by the Secretary as a requirement for coverage, subject to change with new technology and additional medical information. The conferees also note that the reimbursement level provided for under this provision is premised on the understanding that a four-view procedure would be provided.

State survey and certification agencies and private accreditation programs (if approved) could be used to verify compliance with required quality standards.

Payment would be 80% of the least of: (i) the actual charge, (ii) the fee schedule allowance (with respect to both the professional and technical components of screening mammography) established under Section 1834(b) of the Social Security Act, or (iii) a reasonable charge limit. The limit would be $50 in 1990 and would be indexed thereafter by the percent increase in the Medicare Economic Index (MEI).

Beginning January 1, 1992, the Secretary may reduce the reasonable charge limit, as it applies nationally or in an area, if the Secretary finds such action both appropriate and consistent with maintaining convenient access for beneficiaries to screening services.

The agreement provides for an appropriate allocation of the reasonable charge limit between professional and technical components in the case of hospital outpatient screening mammographies (and comparable situations) where there is a claim for professional services separate from the claim for associated technical services. In these cases, payment for the technical component would be based on the allocated reasonable charge limit.

The agreement sets maximum allowable actual charge (MAAC) limits for screening mammographies performed by nonparticipating physicians. These MAAC limits are based on the fee schedule established for radiologists under Section 1834(b) of the Act.

The MAAC limits are 125% of the reasonable charge limit in 1990, 120% of the reasonable charge limit in 1991, and 115% of the reasonable charge limit in 1991 and subsequent years. The Secretary is empowered to impose sanctions against physicians or suppliers who knowingly and willfully impose charges in excess of the limits.

The MAAC limits would be in effect until such time as the Secretary implements a fee schedule for physicians' services based on the relative value scale mandated under Section 1845(e) of the Social Security Act.

The conferees are aware of concern that the $50 reasonable charge limit might limit the availability of mammography in physicians' offices even though the procedure may be available at clinics, hospital outpatient departments, and outpatient radiology facilities. Accordingly, the conference agreement requires the Physician Payment Review Commission to study the cost of providing screening mammography in a variety of settings and at different volume levels. The report would be submitted to Congress by July 1, 1990.

Finally, the conference agreement requires GAO to conduct a study of the quality of screening mammography provided in clinics, hospital outpatient departments, and outpatient radiology facilities as compared with physician offices. This report would also be due by July 1, 1990.

(d) *Catastrophic Limit.*—The conference agreement includes the Senate amendment with a modification. The agreement sets the Part B catastrophic limit for 1990 at $1370. The agreement requires the Secretary to set the limit for future years at an amount necessary to ensure that the percentage of Part B enrollees (not including enrollees in health maintenance organizations) whose expenses are expected to exceed the cap during that year is 7 percent.

The conference agreement requires the Secretary to promulgate, not later than September 1 of each year (beginning in 1990), the catastrophic limit which will be in effect for the following calendar year.

(e) *Payments to Prepaid Health Plans Paid on a Reasonable Cost Basis.*—The conference agreement includes the House provision, with amendments. The provisions relating to charges for covered services after an individual has reached the catastrophic limit apply to organizations with a risk-sharing contract, as well as to those paid on a reasonable cost basis. Different rules apply depending on whether the organization does or does not "buy out" Part B deductible and coinsurance charges for enrolled beneficiaries. A plan is deemed to be a buy-out plan if the actuarial value of the coinsurance and deductible charges it imposes on enrollees for Part B services (other than for outpatient drugs) is less than 50 percent of the national average actuarial value of the Part B coinsurance and deductible for all Medicare beneficiaries.

In the case of a buy-out plan, actual cost-sharing amounts for Part B services incurred by a beneficiary while enrolled in the plan are not counted towards the catastrophic limit. However, the enrollee is deemed to have incurred Part B cost-sharing expenses for each month of enrollment equal to the monthly national average actuarial value of Part B deductible and coinsurance amounts.

In the case of a plan than is not a buy-out plan, cost-sharing amounts for Part B services incurred by a beneficiary while enrolled in the plan are counted towards the catastrophic limit. The plan may not enter into a Medicare contract or receive Medicare payment unless it provides assurance satisfactory to the Secretary that: (i) it will maintain, in coordination with the appropriate Part B carriers, accounts of Part B cost-sharing expenses incurred by enrollees during each year, including out-of-plan services; (ii) it will make the accounts available to an enrollee and to the carrier if an enrollee disenrolls during the year (or at any time, in the case of an organization paid under section 1833); and (iii) it will not undertake to charge any enrollee for Part B services (other than outpatient drugs) after the enrollee has incurred cost-sharing expenses, whether through the organization or otherwise, equal to the catastrophic limit for the year.

The conferees expect that the Secretary, is establishing contracts with Part B carriers under section 1842, will require the carriers to provide information on expenses for

out-of-plan services to the plans without charge.

If a beneficiary is enrolled in a plan which has its contract terminated by the Secretary during a year, no inpatient hospital deductible will be imposed on an individual who can demonstrate to the satisfaction of the Secretary that he or she was admitted to a hospital during the calendar year.

(f) *Limitation on Charges When Catastrophic Limit Reached.*—The conference agreement includes the Senate amendment.

(g) *Notice for Beneficiaries Reaching Catastrophic Limit.*—The conference agreement includes the House provision with a modification. The required notice is to state that the individual has reached the Part B catastrophic limit for the year.

(h) *Beneficiary Costs of Catastrophic Insurance.*—The conference agreement does not include the Senate amendment. The amendment expressed the sense of the Senate, and was duly passed by the Senate.

Effective date.—The conference agreement applies to items and services furnished on and after January 1, 1990.

10. Coverage of Catastrophic Expenses for Prescription Drugs (Section 202 of House bill; Sections 11 and 28 of Senate amendment)

Present law

Medicare generally does not cover outpatient prescription drugs which can be self-administered by the patient. The program covers under Part B immunosuppressive drugs which are furnished within one year of an organ transplant covered by Medicare.

House bill

(a) In General.—Adds "covered outpatient drugs" to services included within the definition of "medical and other health services". Defines a "covered outpatient drug" as one that is: (1) approved for safety and effectiveness under the Federal Food, Drug, and Cosmetic Act, or, in the case of a drug which is a biological product, is licensed under the Public Health Service Act; and (2) insulin certified under the Federal Food, Drug, and Cosmetic Act. The term does not include any drug or insulin provided to an inpatient as part of inpatient hospital services, extended care services, or incident to physicians' services. The term does not include immunosuppressive drugs which are furnished within 1 year of a covered organ transplant.

(b) Phase-In Coverage.—No provision.

(c) Deductible.—

(1) Provides that expenses for covered outpatient drugs do not count toward the Part B deductible and that the Part B deductible is not applicable for covered outpatient drugs.

(2) Requires the individual, before the program makes payments for covered outpatient drugs, to establish that he has incurred (or has had paid in his behalf) expenses for covered outpatient drugs during the year equal to the drug deductible. The Secretary is required, upon application by the individual, to promptly notify the individual (and, if submitted by or through a participating pharmacy, the pharmacy) as to whether he has met the deductible.

(3) Sets the deductible at $500 in 1989. The increase in 1990 and 1991 is equal to the increase in the medical care component of the consumer price index (for the 1-year period ending the previous August). In future years, it is increased by the percentage increase in the outpatient prescription drug index established by the Secretary. The base point of the index is the prices of covered outpatient drugs as of August 1990. In September of each year (beginning in 1991), the Secretary is to determine the percentage change for the preceding 12 months (rounded to the nearest dollar). The Secretary is required to publish the deductible each year beginning in 1989.

(d) Adjustment in Deductible.—Provides for an adjustment if the Secretary's estimate of the additional Part B premium needed to finance the drug benefit indicates an increase of more than 20 percent over the previous year. In this case, the Secretary would increase the deductible by an amount sufficient to reduce the costs of the program to the level that would be financed by a 20 precent premium increase. (The premium is to cover 75 percent of total costs of the drug benefit; see Item 15.)

(e) Authority to Reduce Deductible—No provision.

(f) Payment Amount.—

(1) Specifies that, subject to the deductible, the amount paid with respect to a covered outpatient drug is equal to lesser of the actual charge or the applicable payment limit minus 20 percent of the actual charge. The payment amounts are also applicable for payments for immunosuppressive drugs during the first year following a covered organ transplant.

(2) Specifies that the payment calculation periods are the 6-month periods beginning with January and July of each year.

(3) Requires the Secretary, (before each 6-month payment calculation period beginning on or after January 1, 1989), to provide information on payment limits to participating pharmacies and groups representing or assisting beneficiaries.

(4) Requires the Secretary to provide for an appropriate adjustment to payment rates for prepaid health plans paid on a reasonable cost basis to reflect the new catastrophic drug benefit. The adjustment is to reflect: (A) the aggregate increase in payments which would otherwise be made for enrollees if they were not enrolled in the organization; or (B) the amount that would be paid to the organization or a facility if payments were made on an individual by individual basis. The organization is required to provide assurances, satisfactory to the Secretary, that it will not undertake to charge an individual more than 20 percent of the reasonable cost plus any amount needed to satisfy the deductible.

(g) Payment Limits for Non-Multiple Source Drugs and Drugs With Restrictive Prescriptions.—

(1) Provides that the payment limit for a drug which is either not a multiple source drug or a multiple source drug with a restrictive prescription is the sum of: (A) the product of the number of dosage units or tablet units and the average per tablet or unit wholesale price; plus (B) an administrative allowance.

(2) Requires the Secretary to determine (with respect to dispensing a covered outpatient drug in a payment calculation period beginning on or after January 1, 1989) the average per tablet or unit wholesale price based on the average wholesale price for purchases in reasonable quantities. The determination is to be based on wholesale prices for the first day of the third month before the beginning of the payment calculation period. The determination and calculation of the payment limits are to be made on a national basis, except that the determination and calculation may be done on a regional basis to take into account limitations in availability or variations in average wholesale prices for a drug product.

(3) Specifies that a drug has a restrictive prescription only if the prescription indicates, in the handwriting of the physician (or other person prescribing the drug), and with an appropriate phrase recognized by the Secretary, that the particular drug must be dispensed. An appropriate phrase may be "brand medically necessary)."

(h) Payment Limit for Multiple Source Drugs Without Restrictive Prescriptions.—

(1) Provides that the payment limit for a multiple source drug without a restrictive prescription is the sum of: (A) the product of the number of tablets or dosage units and the unit limit, plus (B) the administrative allowance. Specifies that the unit limit is 50 percent of the brand name reference price for the reference drug product for the period.

(2) Requires the Secretary to establish a brand name reference price for each reference drug product for each payment calculation period. For the 6-month period beginning January 1, 1987, the brand name reference price for a drug product is the average per tablet or unit wholesale price (based on purchases of reasonable quantities) as of January 1, 1987.

Specifies that for each subsequent 6-month payment calculation period, the reference price is increased by the increase in the consumer price index (for the 6-month period ending in the third month of the previous calculation period).

Specifies that for a reference drug product which was not available on January 1, 1987, the base period is the first month of the first payment calculation period in which it is available.

Specifies that brand name reference prices are to be established on a national basis, except that the prices may be established on a regional basis to take into account limitations in availability or variations in the average wholesale price for a drug product.

(3) Defines a multiple source drug as a covered outpatient drug for which (during the payment calculation period) there are 2 or more drug products which: (A) are rated thereapeutically equivalent under the Food and Drug Administration's most recent publication of "Approved Drug Products With Therapeutic Equivalence Evaluations" which is available on the first day of the third month before the beginning of the period; and (B) are sold or marketed during the period.

Specifies that a drug is considered as sold or marketed if it listed in the FDA publication unless the Secretary determines that the sale or marketing is not actually taking place.

(4) Defines a "reference drug period" as a multiple source drug in reference to which other drug products are rated as therapeutically equivalent in the FDA publication.

(i) Administrative Allowance.—Specifies that the administrative allowance is $4.50 for drugs dispensed in a payment calculation period beginning in 1989. For each subsequent payment calculation period, the administrative allowance is increased by the percentage increase (if any) in the implicit price deflator for gross national product.

(j) Assuring Appropriate Utilization.—

(1) Provides that the Secretary may provide that payment for covered outpatient drugs may not be made if they are prescribed or dispensed with excessive frequency or in excessive quantities. The Secretary is required to establish a utilization review program for covered outpatient drugs to identify instances of unnecessary or inap-

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propriate prescribing or dispensing practices and to identify quality of care problems.

(2) No provision.

(k) Treatment of Certain Prepaid Organizations.—Establishes rules with respect to prepaid organizations which do not impose charges on covered outpatient drugs. For purposes of the drug provision, the actual charges of the organization are the organization's standard charges to members and other persons not entitled to drug benefits. The standard charges are to be used for purposes of the drug deductible.

(l) Physician Guide.—Requires the Secretary to develop, and update annually an information guide for physicians on the comparative average wholesale prices of at least 500 of the most commonly prescribed covered outpatient prescription drugs. To the extent practicable, the guide is to group drugs in a manner useful to physicians by therapeutic category or conditions for which they are prescribed. The guide is to specify the wholesale prices on the basis of the amount required for a typical daily therapeutic regimen. The Secretary is required to mail the guide by March 1 of each year (beginning in 1989) to each hospital with a provider agreement with Medicare and each physician who routinely provides Medicare services.

(m) Special Cost-control Measures.—No provision. See Item 10(d) on adjustment in deductible for requirement that Secretary increase drug benefit deductible to prevent excessive increase in premiums.

(n) High Volume Pharmacies.—No provision.

(o) Report on Payment Limits.—Requires the Secretary to review the payment limits established for covered outpatient drugs and report to Congress by April 1, 1989, on the appropriateness of the limits, together with any recommendations for change.

(p) Report on Covered Outpatient Drug Index.—Requires the Secretary to report to Congress by January 1, 1991, on the covered outpatient drug index.

(q) Participating Pharmacies.—

(1) Defines a participating pharmacy as one which is authorized under State law to dispense covered outpatient drugs and which has entered into an agreement with the Secretary. Under the agreement, the entity agrees:

(A) Not to refuse to dispense covered outpatient drug items, stocked by the entity, to Medicare Part B beneficiaries and not to charge them more for such drugs than charged to the general public;

(B) To keep patient records (including records on expenses incurred by beneficiaries) for all covered outpatient drugs dispensed to beneficiaries;

(C) To assist beneficaries in determining whether they have met the drug deductible including providing the necessary documentation;

(D) To provide, upon request of a beneficiary, a copy of his records to another participating pharmacy or Medicare carrier;

(E) To offer to counsel or offer to provide information to each beneficiary on the appropriate use of a dispensed drug and whether there are potential interactions between this drug and others dispensed to the beneficiary;

(F) To advise the beneficiary on the availability (consistent with State drug substitution laws) of therapeutically equivalent covered outpatient prescription drugs; and

(G) To submit, effective January 1, 1992, all claims requests electronically, except this requirement may be waived by the Secretary in cases of undue hardship.

Pharmacies operated by prepaid organizations for the exclusive benefit of its members are not required to dispense covered outpatient drugs to nonmembers.

(2) Requires the Secretary to provide each participating pharmacy with a distinctive emblem and, before each payment calculation period, information on payment limits established under the drug benefit.

(3) Requires the Secretary to provide for periodic audits of participating pharmacies to insure that they do not impose charges on beneficaries in excess of those charged to the general public.

(4) Payments for covered outpatient drugs may only be made on an assignment basis in the case of participating pharmacies.

(r) Civil Monetary Penalty.—No provision.

(s) Limitation to 60 Day Prescription.—Prohibits Part B payments for covered outpatient drugs if dispensed in excess of a 60-day supply.

(t) Additional Premium for Prescription Drug Benefit.—Refers to section 106(a) of the bill. (See Item 15.)

(u) Use of Carriers in Administration.—

(1) Requires carriers making determinations or payments with respect to covered outpatient drugs to: (A) offer to receive payment requests electronically; and (B) respond to requests by participating pharmacies as to whether an individual has met the deductible. The Secretary may enter into agreements for processing of drug claims on a regional basis.

(2) No provision.

(v) Modification of HMO/CMP Provisions.—

(1) Requires HMOs and CMPs with Medicare risk sharing contracts to take into account drug expenses incurred in a year by individuals who enroll after January 1 of a year.

(2) No provision.

(3) No provision.

(w) Medicaid Requirements.—See Item 33.

(x) Beneficiary Drug Cost Survey and CBO Report.—

(1) Requires the Secretary to conduct a statistically valid survey, and report to Congress by March 1, 1989, on expenses incurred by beneficiaries for covered outpatient drugs. The Secretary is required to consult with the General Accounting Office (GAO) and the Congressional Budget Office (CBO) concerning survey design. The survey is to provide information on the distribution of expenses for covered outpatient drugs for Medicare beneficiaries generally and the distribution of expenses by age, sex, income, and institutional status.

(2) Requires the CBO (within 2 months of submission of the report) to estimate Medicare expenditures for fiscal year 1990-93 for covered outpatient drugs.

(3) No provision.

(y) Prescription Drug Payment Review Commission.—Requires the Director of the Office of Technology Assessment (OTA) to provide for the appointment of a Prescription Drug Payment Review Commission to be composed of individuals with expertise in the provision and financing of covered outpatient prescription drugs. The Director of OTA shall appoint the 11 Commission members by October 1, 1988, for staggered 3-year terms. The membership must include recognized experts in health care economics, medicine, pharmacology, pharmacy, and prescription drug reimbursement, as well as one Medicare beneficary. The Commission is required to make annual recommendations to the Secretary.

(z) Additional Studies.—

(1) Requires the Secretary to conduct studies on:

(A) Extent of private or other third-party drug coverage for beneficiaries;

(B) Comparison of published average wholesale price and actual pharmacy acquisition costs by type of pharmacy;

(C) Overhead costs of retail pharmacies;

(D) Potential application of new claims processing and billing technologies;

(E) Methods for utilization review;

(F) Alternative payment methodologies that promote greater program efficiencies; and

(G) Potential for induced demand resulting from the drug benefit.

(2) Requires the Secretary, as part of the studies, to conduct a longitudinal study on the use of covered outpatient drugs by beneficiaries with respect to medical necessity, potential for adverse drug interactions, and patient stockpiling or wastage. The Secretary is required to report to Congress on the results of the studies by January 1, 1991.

(3) No provision.

(aa) Study of Treatment of Prescription Drugs.—No provision.

(bb) Simplification of Recordkeeping.—No provision.

Effective date.—Applies to drugs dispensed on or after January 1, 1989. (u) and (y) effective on enactment. (v) applies to new enrollments effected on or after January 1, 1989.

Senate amendment

(a) In General.—Adds "covered outpatient drugs" to services included within the definition of "medical and other health services". Defines a covered outpatient drug as one which is: (1) approved for safety and effectiveness under the Federal Food, Drug, and Cosmetic Act, or is recognized in the "United States Pharmacopoeia" (and is available only under a prescription); or (2) in the case of a prescription drug which is a biological product, is licensed under the Public Health Service Act. The term does not include any drug or biological which would have been paid for under Medicare prior to enactment of this law. The term does not include immunosuppressive drugs which are furnished during the first year following a covered transplant.

(b) Phase-In Coverage.—

(1) Specifies that in 1990, the term covered outpatient drug includes a drug which is an intraveneously administered anti-infective agent, a cancer chemotherapeutic agent (including a drug used to enhance the safety and efficacy or counteract the toxicity of anticancer drugs) or immunosuppressive drugs after the first year following a covered organ transplant.

(2) Specifies that in 1991 and 1992, the term covered outpatient drug includes drugs specified under item (1) and any cardiovascular or diuretic drug.

(c) Deductible.—

(1) Similar provision.

(2) Identical provision.

(3) Sets the deductible at $600 in 1990. In subsequent years, it is increased by the percentage by which the Part B beneficiary drug expenditure amount for the 12-month period ending the previous August exceeds such amount for the preceding 12 months (rounded to the nearest dollar). [See Item 15 below for definition of beneficiary drug expenditure amount.] The Secretary is required to publish each September (beginning in 1990) the deductible for the following year.

(d) Adjustment in Deductible.—No provision.

(e) Authority to Reduce Deductible.—Provides that if the Secretary determines there is sufficient revenue to pay all of the benefits and administrative costs, and to provide an adequate contingency margin (as determined by the Secretary), the Secretary may reduce the deductible amount to $500 in 1991, $400 in 1992, and $300 in 1993.

(f) Payment Amount.—

(1) Similar provision, except specifies that the applicable payment limit is subject to reductions applied to high volume pharmacies.

(2) Specifies that the payment calculation period is the 12-month period beginning every January (after 1989).

(3) Similar provision except: (A) applies to payment calculation periods beginning on or after January 1, 1990; and (B) also requires provision of information on any reductions applied for high volume pharmacies.

(4) Permits a prepaid health plan paid on a reasonable cost basis to elect to be paid 80 percent of the reasonable cost of immunosuppressive and covered outpatient drugs. Such organization may not charge individuals more than 20 percent of the reasonable cost plus any amount needed to satisfy the deductible.

(g) Payment Limits for Non-Multiple Source Drugs and Drugs With Restrictive Prescriptions.—

(1) Similar provision.

(2) Similar provision except: (A) applies to determinations for payment calculation periods beginning on or after January 1, 1990; (B) specifies that the average per tablet or unit wholesale price is the most recently published figure; and (C) requires the calculation to be made on a national basis if the drug is available on a national basis.

(3) Similar provision, except applies to written prescriptions. Specifies that for telephone prescriptions, the physician or other person (through the use of an appropriate phrase) states that the particular drug must be dispensed.

(h) Payment Limit for Multiple Source Drugs Without Restrictive Prescriptions.—

(1) Provides that the payment limit for a multiple source drug without a restrictive prescription is the sum of (A) the product of the number of tablets (or other dosage units) and 150 percent of the lowest average per tablet or unit wholesale price for the drug; and (B) the administrative allowance.

(2) Requires the Secretary to determine with respect to covered outpatient drugs for the payment calculation period (beginning on or after January 1, 1990) the average per tablet or per unit wholesale price for the drug for purchases in reasonable quantities. Specifies that for the period beginning January 1, 1987, the average is the average per tablet or per unit wholesale price for the drug as of January 1, 1987.

Specifies that for subsequent payment calculation periods, the amount is the lesser of: (A) the most recently published average per tablet or per unit wholesale price; or (B) the average per tablet or unit price established for the previous payment calculation period increased by the percentage change in the Consumer Price Index for the 12-month period ending the preceding August.

Requires the Secretary to establish the average per tablet or per unit wholesale price, in the case of a covered outpatient drug which is not available as of January 1, 1987, for the first month of the first payment calulation period in which it is available.

Requires the Secretary to make determinations on a national basis if the drug is available on a national basis. If not, the Secretary may make determinations and calculate payment limits on a regional basis to take into account the availability of drug products and variations in average wholesale prices.

(3) Defines a multiple source drug as a covered outpatient drug for which (during the payment calculation period), there are 2 or more drug products (or in the case of a covered outpatient drug subject to a patent, 3 or more drug products) generally available to beneficiaries through retail pharmacies which the Secretary determines are: (A) pharmaceutically equivalent, bioequivalent, adequately labeled, and manufactured in compliance with the Current Good Manufacturing Practice regulations; and (B) sold or marketed during the period.

Specifies that drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity. Drugs are bioequivalent if they do not present a known or potential bioequivalence problem, or if they do present such a problem, are shown to meet an appropriate bioequivalence standard.

Specifies that a drug is considered to be sold or marketed during a period if it is listed in the Food and Drug Administration's most recent publication of "Approved Drug Products With Therapeutic Equivalance Evaluations" for the third month before the beginning of the period, unless the Secretary determines that such sale or marketing is not actually taking place.

(4) No provision.

(i) Administrative Allowance.—Similar provision, except: (A) administrative allowance is $3.50 for nonparticipating pharmacies for the payment calculation period beginning January 1, 1990; and (B) the amounts are increased annually rather than biannually.

(j) Assuring Appropriate Utilization.—

(1) Provides that the Secretary may provide that payment for covered outpatient drugs may not be made in specific instances if they are prescribed or dispensed with excessive frequency or in excessive quantities. The Secretary is required to establish a utilization review program for covered outpatient drugs to identify patterns of unnecessary or inappropriate prescribing or dispensing practices, including excessive charging in the dispensing of drugs and to identify patterns of substandard care.

(2) Requires the Secretary in carrying out the utilization review program, to use diagnosis and indication codes and establish standards for the prescribing, dispensing, and utilization for each covered outpatient drug. In establishing the standards, the Secretary (after providing notice in the Federal Register and not less than a 60-day comment period) may incorporate standards from current authoritative medical references as he may select.

(k) Treatment of Certain Prepaid Organizations.—Identical provision.

(l) Physician Guide.—Similar provision, except guide must be mailed by January 1 of each year (beginning in 1990).

(m) Special Cost-Control Measures.—Requires the Secretary to institute necessary cost control measures if he determines that the monthly catastrophic drug benefit premium will exceed the limits established under this bill. (See Item 15.) In carrying out this provision, the Secretary may not exclude from coverage or limit payment for any specific covered outpatient drug or specific class of covered outpatient drugs or change the methodology for calculating whether the individual has met the deductible. However, the Secretary may exclude from coverage all drugs listed in a major classification of the most recently issued version of Veterans' Administration Medication Classification System.

(n) High Volume Pharmacies.—Authorizes the Secretary, after 1990, to reduce by regulation the payment limits established (both for nonmultiple source and multiple source drugs) dispensed by a high volume pharmacy (as defined by the Secretary). The reductions are to be based on differences between high volume pharmacies and other pharmacies with respect to operating costs, quantity discounts, and other economies. The Secretary is required to consult with high volume pharmacists, elderly groups and private insurers in making such adjustments. A minimum 90-day public comment period is required for proposed regulations.

(o) Report on Payment Limits.—Requires the OTA and the Secretary to submit to the Congress before beginning of the calendar year (for years after 1990) recommendations for adjustments to the payment limits. The Secretary is required to request the National Academy of Sciences, acting through the Institute of Medicine, to enter into a contract to make such recommendations. Each is required to consult with pharmacists, pharmaceutical manufacturers, elderly groups, and private insurers in making such recommendations.

(p) Report on Covered Outpaient Drug Index.—No provision.

(q) Participating Pharmacies.—

(1) Similar provision except:

(A) Does not apply in the case of any entity which dispenses covered outpatient drugs exclusively to beneficaries enrolled in HMOs and CMPs;

(B) Identical provision;

(C) To assist beneficiaries in determining whether or not their expenses for covered outpatient drugs exceed the deductible and to certify to the Secretary, with respect to such beneficiaries that their expenses exceed the deductible and make available supporting documentation. Nothing is to be construed as authorizing the Secretary to require submission of the documentation with respect to prescriptions other than pursuant to an audit, upon certification under this provision, or for monitoring purposes from a sample of up to 7.5 percent of participating pharmacies;

(D) Identical provision;

(E) Specifies that the provision of information to beneficiaries is to be consistent with State law respecting the provision of such information;

(F) Identical provision;

(G) Changes the effective date to January 1, 1991.

(2) Identical provision.

(3) Identical provision.

(4) Identical provision.

(r) Civil Monetary Penalty.—Provides that civil monetary penalties may be imposed in the case of participating or nonparticipating pharmacy which presents, or causes to be presented, a request for payment for covered outpatient drugs at a charge greater than that charged the general public.

(s) Limitation to 60 Day Prescription.—Similar provision except permits up to a 90 day supply in the case of an individual re-

ceiving chronic maintenance drug therapy as defined by the Secretary.

(t) Additional Premium for Prescription Drug Benefit.—No specific cross reference (See Item 15).

(u) Use of Carriers in Administration.—

(1) Similar provision, except includes fiscal intermediaries in title.

(2) Specifies that 95 percent of clean claims for covered outpatient drugs are to be paid within 45 days of receipt.

Specifies that contracts with carriers shall provide that no payment shall be issued, mailed, or otherwise transmitted for covered outpatient drugs within 30 days after the claim is received.

(3) Authorizes the Secretary to enter into contracts with intermediaries and carriers for performance of functions relating to home intravenous drug therapy on a regional basis.

(v) Modification of HMO/CMP Provisions.—

(1) Identical provision.

(2) Specifies that the calculation of the premium rate and the actuarial value of the deductible and coinsurance for individuals enrolled only in Part A or Part B is to be made separately for the drug benefit.

(3) Specifies that additional benefits required to be provided by an HMO/CMP may include reduction of premium rate or other charges made with respect to drugs.

(w) Medicaid Requirements.—See Item 33.

(x) Beneficiary Drug Cost Survey and CBO Report.—

(1) Similar provision, except requires the Secretary also to consult with consumer groups and representatives of the pharmaceutical and pharmacist industries. Report on survey due by January 19, 1989.

(2) Identical provision.

(3) Requires the GAO (within 2 months of submission of the report) to report on the validity of the survey and the extent to which pharmacies accept assignment and barriers, if any, to such acceptance.

(y) Prescription Drug Payment Review Commission.—No provision.

(z) Additional Studies.—

(1) Similar provision, except does not include Item B. Adds study requirement on the possibility of including drugs which have not yet been approved under the Federal Food, Drug, and Cosmetic Act, but which are commonly used in the treatment of cancer or immunosuppressive therapy as covered outpatient drugs. The study shall be conducted in consultation with an advisory board of consumers, experts in the field of cancer therapy and immunosuppressive therapy, representatives of pharmaceutical manufacturers, and such other individuals as the Secretary may select.

(2) Similar provision except requires an interim report by not later than January 1989.

(3) Requires the Secretary and the GAO to each conduct and periodically update a study on comparison of published average wholesale prices and actual pharmacy acquisition costs by type of pharmacy. A report is to be sumitted to Congress on the results of each study and update with the first report due no later than January 1, 1989.

(aa) Study of Treatment of Prescription Drugs.—

(1) Requires the OTA to conduct a study to identify additional or alternative covered outpatient drugs that can be included under the Medicare definition for 1991 and 1992.

(2) Requires the Secretary to request the National Academy of Sciences, through the Institute of Medicine, to enter into a contract under which the Institute, in consultation with representatives of appropriate research and health care organizations, will also conduct the study described in (1). The Secretary is to be responsible for related expenses incurred by the Academy.

Specifies that in conducting the study, the Office and the Institute are to give particular attention to those drugs that meet any or all of the following criteria:

(A) The drug is used by a large number of beneficiaries;

(B) The drug can be covered without significant administrative difficulties;

(C) Coverage will provide useful information with respect to utilization and cost of covered outpatient drugs under Medicare;

(D) Coverage will not cause an unreasonable increase in premiums under Medicare;

(E) The drug is expensive when used as part of a chronic drug regimen.

Requires the OTA and the Institute to submit to the Secretary and appropriate congressional committees an interim report within 6 months of enactment, and a final report containing specific findings and recommendations within 12 months.

(bb) Simplification of Recordkeeping.—Requires the Secretary, by October 1, 1988, to enter into an agreement with two or more private entities to conduct demonstration projects to test the use of magnetic cards, electronic billing, and other technological devices in the administration of the drug benefit.

Specifies that the Secretary shall select among applications submitted by entities in the form prescribed by the Secretary. The Secretary shall determine the time necessary to carry out the project and submit a report within 6 months of completion.

Specifies that the projects are to be conducted at statistically relevant locations and be used for providing quick data for projecting total cost of the drug benefit.

Requires the Secretary to develop, in consultation with representatives of participating pharmacies, consumers, and other interested individuals, a standard receipt to be used by Medicare beneficiaries in making purchases from participating pharmacies. The receipt is to be distributed by January 1, 1990. The Secretary is to take appropriate steps to insure that such pharmacies used the receipt.

Effective date.—Enactment.

Conference agreement

(a) *In General.*—The conference agreement includes the House provision with an amendment. The agreement includes coverage for two additional categories of prescription drugs. The first category includes those drugs (i) which were commercially used or sold prior to the Drug Amendments of 1962 and (ii) which are identical, similar or related to those described in clause (i) provided that the Secretary has not made a final determination that the drugs described in clause (i) or (ii) are "new drugs." These drugs are the so-called "pre-1938" drugs and are not subject to current requirements regarding pre-market approval by the Food and Drug Administration (FDA) for safety and efficacy.

The conference agreement also includes coverage for certain so-called DESI drugs. Under the provisions of the 1962 amendments to the Federal Food, Drug, and Cosmetic Act, all new drugs must be shown to be effective and safe rather than just safe as had been required previously. This legislation also applied retroactively to all drugs approved as safe from 1938 to 1962. The program established to review the effectiveness of these drugs was named the Drug Efficacy Study Implementation (DESI) program. Under the program, drugs were labelled effective, probably effective, possibly effective, or ineffective. The FDA reviewed any additional evidence submitted by the manufacturer for those drugs determined to be less than effective. If the FDA decides that a drug product lacks substantial evidence of effectiveness for the conditions it is intended to treat, it publishes a notice of opportunity for hearing in the Federal Register on a proposal to withdraw approval for marketing. This affords the manufacturer an opportunity for a hearing before a final determination is made. The conference agreement includes coverage for DESI drugs for which the Secretary has not issued a notice for an opportunity for a hearing and for which the Secretary has determined there is compelling justification for its medical need. Also included are identical, similar or related drugs. It is the understanding of the conferees that the only DESI drug which would be covered by this provision, because a notice for an opportunity for a hearing has not been issued, is nitroglycerin patches.

The agreement further clarifies that the term "covered outpatient drugs" does not include drugs which are already being reimbursed under current law because they are provided as part of, or incident, to other covered services.

(b) *Phase-in Coverage.*—The conference agreement includes the Senate amendment with modifications. The agreement provides coverage for two categories of drugs in 1990—drugs used in immunosuppressive therapy and covered home intravenous (IV) drugs.

Drugs used in immunosuppressive therapy are currently covered for only one year after a transplant that is covered by Medicare. The conference agreement would retain this coverage, which would remain subject to current rules on coinsurance. The conference agreement would add subsequent coverage as well, irrespective of whether the transplant was covered by Medicare. This subsequent coverage would be subject to the same rules regarding deductible and coinsurance as apply to other newly covered prescription drugs.

The agreement provides for coverage of all "covered outpatient prescription drugs" effective January 1, 1991. The agreement provides for a phase-in of the benefit by reducing the requisite beneficiary coinsurance over a three-year period.

Coinsurance is set at 50% in FY 1990 and FY 1991, 40% in FY 1992, and 20% in FY 1993 and each year thereafter. The agreement limits coinsurance to 20%, starting in 1990 with no phase-in, for home IV drugs and immunosuppressive drugs used during the first year after a Medicare covered transplant. (For subsequent use of immunosuppressive drugs, coinsurance would be determined by the general rule.)

The agreement defines a covered home IV drug as one that is intravenously administered in a home setting. The term includes antibiotic drugs, unless the Secretary has determined, for a specific drug or for the indication for which it is applied, that it cannot generally be safely or effectively administered in a home setting. The term includes additional IV drugs (other than antibiotics) only if the Secretary determines that for the specific drug and the indication for which it is being applied, that it can generally be administered safely and effectively in a home setting. The Secretary could establish guidelines or precautions necessary

to assure the safety and effectiveness of specific IV drugs in a home setting.

The agreement does not require the Secretary to consult with an advisory panel in making these determinations. The conferees note that the Secretary could refer review of safety and effectiveness issues to the Public Health Service's Office of Health Technology Assessment.

The conferees expect that the Secretary will complete a review of the safety and effectiveness of home IV cancer chemotherapy drugs as soon as possible.

A drug, which would otherwise be covered as an outpatient drug, is excluded from coverage if the drug is intravenously administered in a home setting and does not satisfy the definition of a covered home IV drug.

(c) *Deductible.*—

(1) The conference agreement includes the Senate amendment.

(2) The conference agreement includes the House provision. In determining whether a beneficiary has met the deductible, the Secretary would count all expenses paid on behalf of the beneficiary, such as those paid pursuant to an insurance policy. In calculating the deductible, the Secretary must include amounts actually paid by the beneficiary (or on the beneficiary's behalf) and may not reduce such amounts by applying Medicare payment screens below the deductible.

(3) The conference agreement includes the Senate amendment with a modification. The agreement sets the deductible at $550 in 1990, $600 in 1991, and $652 in 1992. In future years the deductible will be indexed so as to ensure that the percentage of Part B enrollees (not including enrollees in health maintenance organizations) whose expenses for covered outpatient drugs are expected to exceed the deductible during that year is 16.8%. This is the same percentage as the percentage of enrollees whose costs are expected to exceed the deductible in 1991. The conference agreement specifies a deductible for 1992 in the law rather than relying on indexing by the Secretary, because actual program data necessary for reliable indexation would not be available in time for setting the 1992 deductible.

The agreement requires the Secretary to publish by May 1 of each year (beginning in 1992) a proposed regulation establishing the deductible for the next year. The Secretary would be required to publish a final regulation during the last 3 days of September. The final deductible established in September may not exceed deductible proposed in May.

The conference agreement provides that the drug deductible will not apply for home IV drugs dispensed as part of a continuous course of therapy initiated while the beneficiary was a hospital inpatient. Further, the drug deductible does not apply with respect to immunosuppressive drugs furnished within one year following a covered organ transplant.

(d) *Adjustment in Deductible.*—The conference agreement does not include the House provision.

(e) *Authority To Reduce Deductible.*—The conference agreement does not include the Senate amendment. Because the deductible after 1992 will be indexed to ensure that 16.8% of beneficiaries reach the deductible, the Secretary would be authorized to lower or raise the deductible.

(f) *Payment Amount.*—

(1) The conference agreement includes the Senate amendment with a modification. The agreement specifies that the amount paid for a covered outpatient drug is equal to the "payment percent" multipled by the lesser of the actual charge or the applicable payment limit. The payment percent is 100% minus the required coinsurance. Thus, in 1990 (and thereafter), the payment percent is 80% for home IV drugs and for immunosuppressive drugs used during the first year post transplant. The payment percent for other covered outpatient drugs is 50% in 1990 and 1991, 60% in 1992, and 80% thereafter.

The agreement deletes the reference to high volume pharmacies.

(2) The conference agreement includes the House provision with an amendment specifying that the first payment calculation period begins January 1, 1990.

(3) The conference agreement deletes the Senate amendment requiring that the information on payment limits be provided on a list sent to pharmacies. The conferees note, however, that this information will be available through the electronic system. The reference to high volume pharmacies also is deleted.

(4) The conference agreement includes the Senate amendment, with modifications. The provisions relating to charges for covered services after an indvidual has met the catastrophic deductible for outpatient drugs apply to organizations with a risk-sharing contract and those paid on a reasonable cost basis as well as to those health care prepayment plans that have elected to provide the catastrophic drug benefit. Different rules apply depending on whether the organization does or does not "buy out" drug charges below the catastrophic deductible amount for enrolled beneficiaries. A plan is deemed to be a buy-out plan if the deductible charge it imposes on enrolles for covered outpatient drugs is less than 50 percent of the Medicare catastrophic deductible for outpatient drugs.

In the case of a buy-out plan, actual expenses for outpatient drugs incurred by a beneficiary while enrolled in the plan are not counted towards the catastrophic limit. However, if an enrollee disenrolls during a year, he or she is deemed to have incurred expenses for covered drugs during each month of enrollment during the year equal to the monthly national average drug expenses during that year for all Medicare beneficiaries. The Secretary is required, in December of each year, to estimate the national average expense for covered drugs for the following year.

In the case of a plan that is not a buy-out plan, expenses for covered outpatient drugs incurred by a beneficiary while enrolled in the plan are counted towards the catastrophic limit. The plan may not enter into a Medicare contract or receive Medicare payment unless it provides assurances satisfactory to the Secretary that: (i) it will maintain, in coordination with the Part B carriers, accounts of expenses for covered drugs incurred by or on behalf of enrollees during each year, and will make the accounts available to an enrollee and to the carrier if an enrollee disenrolls during the year; and (ii) in determining whether an enrollee has met any deductible under its own plan, the organization will take into account all those expenses for covered drugs that are to be counted towards the catastrophic drug deductible.

The conferees expected that the Secretary, in establishing contracts with Part B carriers under section 1842, will require the carriers to provide information on expenses for out-of-plan services to the plans without charge.

(g) *Payment Limits for Non-Multiple Source Drugs and Multiple Source Drugs With Restrictive Prescriptions.*—

(1) The conference agreement includes the House provision with a modification. The Medicare payment limit for a single source drug or a multiple source drug with a restrictive prescription is the lessor of:

(A) the 90th percentile of actual charges for the drug adjusted (as appropriate by the Secretary) to reflect the number of dosage units or tablet units dispensed; or

(B) the administrative allowance plus the number of tablets or dosage units dispensed times the per tablet or per unit average wholesale price.

The agreement specifies that the 90th percentile limit would be computed on a statewide, carrier-wide or other appropriate geographic area basis (as determined by the Secretary) using charge data from the second previous payment calculation period. The 90th percentile limit would not be used before January 1, 1992 because the necessary data would not be available.

(2) The conference agreement includes the House provision with an amendment. The agreement requires the Secretary to conduct a biannual survey of a representative sample of direct sellers, wholesalers, or pharmacists (as appropriate) to determine the applicable average wholesale price or comparable direct price for each single source drug as of the first day of the first month of the previous payment calculation period. The Secretary would be prohibited from taking into account any discounts that might be provided by wholesalers or direct sellers to pharmacies in determining the applicable average wholesale or direct prices.

Because the survey is a necessary part of the drug benefit and is vital to ensuring the integrity of reimbursement limits, the conference agreement permits the Secretary to impose civil money penalties of up to $10,000 if a wholesaler or direct seller refuses, after a request by the Secretary, to provide information required for the survey or provides information that is false. The conference agreement also requires pharmacies to cooperate with the survey and provides penalties for non-compliance. (*See* subparagraph (g), below.) Information gathered pursuant to the survey would be confidential and could not be disclosed by the Secretary, except as the Secretary determines to be necessary to administer the drug benefit.

The Secretary would not be required to conduct a survey with respect to a specific drug if the Secretary determines that such a survey would not be appropriate because of low volume of sales or other appropriate reason. The survey requirement could also be waived for covered outpatient drugs dispensed during 1990. In these circumstances, the Secretary would rely on published average wholesale prices from reliable sources and would have the authority to set the average wholesale price on the basis of the lowest reliable published price.

The agreement specifies that the Secretary shall make the determination of the average wholesale price based on the price or prices of purchases in reasonable quantities. The Secretary is further required to make the determinations and calculate the payment limit on a national basis. However, the Secretary could make such determinations on a regional basis to take into account limitations on the availability of drug products and variations in average wholesale prices among regions.

(3) The conference agreement includes the Senate amendment with an amendment. In the case of telephone prescriptions, a drug would only be subject to a restrictive prescription if the physician (or other person) through use of an appropriate phrase (as required for written prescriptions) states that a particular brand must be dispensed and submits a written confirmation to the pharmacy involved within thirty days after the date of the telephone prescription. If such confirmation is not submitted, payment would be based on limits for the corresponding multiple source drug.

(h) *Payment Limit For Multiple Source Drugs Without Restrictive Prescriptions.*—

(1) The conference agreement includes the Senate amendment with an amendment. The payment limit for a multiple source drug without a restrictive prescription is the sum of: (A) the product of the number of dosage units or tablet units dispensed and the unweighted median of the per unit average wholesale prices of the available drug products plus (B) an administrative allowance.

To determine the median, the Secretary would array the average wholesale prices (by appropriate dosage or tablet unit) for all FDA approved drug products that are rated by the FDA as therapeutically equivalent, including the corresponding brand name drug. (*See* subparagraph (3), below.

(2) The conference agreement includes the Senate amendment with a modification. In calculating the unweighted median, the Secretary is generally expected to use the average wholesale price for multiple source drugs based on reliable published sources. However, where appropriate, the Secretary may conduct a biannual survey of average wholesale prices of specific multiple source drugs. Such a survey is comparable to (and could be conducted in conjunction with) the annual survey of such prices for single source drugs. The conferees intend that the Secretary may exclude a drug from the calculation of the median if it is not being actively marketed.

(3) The conference agreement includes the House provision with an amendment. The agreement provides that in order for drugs to be multiple source drugs, the FDA must determine that they are pharmaceutically equivalent and bioequivalent as defined by the Medicare statute. This definition is the same as that currently used by the FDA. The agreement assumes that such FDA determination would be made at the time FDA approves the drug; it does not require a new or subsequent determination.

If the FDA changes the definition of therapeutic equivalence through a formal rule-making procedure (including a 90 day comment period), the requirement of pharmaceutical equivalence and bioequivalence as contained in the Medicare statute would not apply and the drug would only be required to meet the revised FDA definition of therapeutic equivalence.

(4) The conference agreement does not include the House provision.

(i) *Administrative Allowance.*—The conference agreement includes the Senate amendment with an amendment setting the administrative allowance for participating pharmacies at $4.50 in 1990 and 1991 and for nonparticipating pharmacies at $2.50 in 1990 and 1991. Thereafter, the allowances are indexed by the GNP price deflator.

(J) *Assuring Appropriate Utilization.*—

(1) The conference agreement includes the Senate amendment with modifications. The agreement does not include the provision authorizing the Secretary to deny payment for drugs prescribed or dispensed with excessive frequency or in excessive quantities. The conferees note that such new authority is unnecessary. The Secretary already has authority under Section 1862(a)(1) of the Social Security Act to deny payment for items and services that are not reasonable and necessary for the diagnosis or treatment of illness or injury. Pursuant to this authority, the Secretary could deny payment for drugs prescribed or dispensed with excessive frequency or in excessive quantities.

The conference agreement requires the Secretary to establish a program to identify: (i) instances and patterns of unnecessary or inappropriate prescribing or dispensing practices; (ii) instances or patterns of substandard care; and (iii) potential adverse drug reactions.

The conferees expect that participating pharmacists will review the medication profile of beneficiaries for potential adverse reactions before filling prescriptions. The conferees further intend that carriers will review claims retrospectively to identify practitioners exhibiting a pattern of inappropriate drug prescribing or dispensing.

The conference agreement also requires the Secretary to establish an educational program to educate physicians and pharmacists about inappropriate prescribing and dispensing practices. This program is expected to include a range of educational interventions, ranging from written to face-to-face communications.

(2) The conference agreement includes the Senate amendment with modifications.

The conference agreement does not include the Senate provision which would have required the use of diagnosis codes on all prescriptions. The conferees believe this requirement would have been unduly burdensome for physicians. Instead, the conference agreement requires physicians to report the appropriate diagnosis code (or codes) on all claims for services they provide. This information would be available for immediate use for utilization review of physician services (and could be used for prepayment screens) and could be used in the future to facilitate drug utilization review by merging Part B with drug claims data.

To enforce the requirement of submission of diagnosis codes, the Secretary would be authorized to deny payment on assigned claims if the required diagnostic information is not provided. In the case of non-assigned claims, if a physician knowingly and willfully fails to respond to a request by a carrier to provide required information not initially included, the physician could be subject to civil money penalties of up to $2,000. Moreover, if a physician knowingly and willfully continues not to provide the required diagnostic information on the initial claims after being notified of the specific obligation to provide such information, the physician could be subject to civil monetary penalties and or exclusion from Medicare under Section 1842(j)(2)(A) of the Social Security Act.

The conferees intend that the Secretary will take appropriate measures to insure the confidentiality of patient-specific information which has been obtained.

The conference agreement includes the Senate provision on drug utilization review standards with modifications. The Secretary would be required to establish standards for the use of each covered outpatient drug based on accepted medical practice. In establishing these standards, the Secretary would be required to incorporate standards from one (or more) current authoritative compendia as the Secretary may select.

The conferees expect that included among the compendia the Secretary will consider for use are the United States Pharmacopoeia Dispensing Information, volume 1 (Drug Information for the Health Care Professional), the American Medical Association's Drug Evaluations, and American Hospital Formulary Service Drug Information. The conferees expect that the Secretary will use only those compendia which base such standards on a review of published scientific and medical information, which provide for a public comment and review process, and which provide adequate assurances that the panelists who establish standards are free of financial (or other) conflicts of interest.

The Secretary, through rule-making, may modify these standards, for use in the Medicare program, on the basis of published scientific and medical information indicating that such standards are not consistent with the safe and effective use of such drug.

The conference agreement also specifies that nothing in Title XVIII of the Social Security Act should be construed as authorizing the Secretary to establish a formulary by excluding from coverage: (i) any specific covered outpatient drug or class of drugs or (ii) the specific use of any covered outpatient drug with respect to a specific indication, unless the exclusion is pursuant to Section 1862(a)(1) and is based on a finding by the Secretary that such use is not safe or effective. The Secretary could, however, exclude certain drugs pursuant to Section 1862(c), relating to exclusions for drugs subject to a proposed order by the FDA to withdraw marketing approval, or 1861(t)(4)(A), relating to the definition of covered home IV therapy drugs (*See* subparagraph (b), above).

(k) *Treatment of Certain Prepaid Organizations.*—The conference agreement does not include the House provision or the Senate amendment. (*See* subparagraph (q), below.)

(1) *Physician Guide.*—The conference agreement includes the Senate amendment with a clarification. The Secretary is required to mail the guide by January 1 of each year, beginning in 1991, to participating hospitals, to each physician who routinely provides Part B services, to Social Security offices, to senior citizen centers, and to other appropriate places.

(m) *Special Cost Control Measures.*—The conference agreement includes the Senate amendment with a modification. The agreement requires the Secretary, immediately upon enactment, to begin compiling information on prices charged by manufacturers and by retail pharmacies for covered outpatient drugs. The Secretary shall compare increases in drug prices for each six month period beginning January 1, 1987, with the average semi-annual increase in such prices during the January 1, 1981 to January 1, 1987 period. The agreement also requires the Secretary to review all available information on the use of prescription drugs by Medicare beneficiaries. The conference agreement requires the Secretary to file a report with the House Committees on Ways and Means and Energy and Commerce and the Senate Committee on Finance in May and November of 1989 and 1990 and in May of each succeeding year containing this information.

Each report submitted after 1991 will also include an explanation of the extent to

which increases in expenditures for covered outpatient drugs are the result of price increases by manufacturers and pharmacists and increased drug use by beneficiaries and will include information: (i) on the projected budgetary status of the prescription drug trust fund for the succeeding year; (ii) projected increases in manufacturer's and pharmacists' prices; (iii) the projected level of utilization of covered outpatient drugs by beneficiaries; and (iv) projected administrative costs.

The conference agreement requires the Secretary to submit monthly reports to the Congress, from October 1991 through April 1993, showing monthly outlays and receipts of the Federal Catastrophic Drug Insurance Trust Fund.

The agreement further specifies that the Secretary's May 1, 1992 and 1993 reports will determine whether the anticipated outlays and receipts of the new trust fund are sufficient to achieve the established contingency reserve margin for 1993 and 1994. If not, the report will recommend necessary changes (which will also be published in the Federal Register by May 1 as a proposed regulation). Any such recommended changes should appropriately address each of the causes of increased or unanticipated costs for the program.

If the Secretary has published a proposed regulation by May 1 of 1992 or 1993, the Secretary may publish a final regulation during the last 3 days of September of such year to implement the changes proposed. Such changes will become effective as of January 1 of the next year and will apply only during such year and will take effect notwithstanding any other provisions of this part.

Several limitations, however, would apply to the Secretary's cost control authority. First, the final regulation may not provide for a net reduction in outlays in excess of the net reduction provided in the proposed regulation. Second, the Secretary may not provide for a formulary in violation of the prohibition contained in subparagraph (j). Third, the Secretary may not change the methodology for calculating whether the drug deductible has been met (but could change the level of the deductible). Finally, the Secretary could not increase the coinsurance above the level in effect during the previous year.

The conferees intend that, in designing any cost control recommendations, the Secretary will attempt to insure that beneficiary access will not be adversely affected.

The conferees expect and encourage the Secretary to make other recommendations concerning legislative changes that would improve the administration of the new outpatient prescription drug benefit. Such recommendations would be subject to approval by the Congress as part of the normal legislative process.

The conferees understand that the proposed and final regulations will not be reflected in the Congressional Budget Office's August baseline for FY 1993 and FY 1994.

(n) *High Volume Pharmacies.*—The conference agreement includes the Senate amendment with a modification limiting the Secretary's authority to reducing the administrative allowance for mail service pharmacies. Such reductions (if any) must be based on differences between mail service pharmacies and other pharmacies with respect to operating costs and other economies.

(o) *Report on Payment Limits.*—The conference agreement deletes this provision. The conferees intend to request, by letter, the Office of Technology Assessment to prepare a study on possible alternative payment methodologies.

(p) *Report on Covered Outpatient Drug Index.*—The conference agreement does not include the House provision.

(q) *Participating Pharmacies.*—

(1)(A).—The conference agreement includes the Senate amendment. The conferees note that some prepaid health plans operate pharmacies which charge members of the plan less than the pharmacy charges members of the general public. In this case, the conferees intend that the test of compliance with this provision be based on the pharmacy's charges to members of the general public who are not members of the prepaid health plan.

(1)(B).—The conference agreement includes the House provision.

(1)(C).—The conference agreement includes the House provision with a modification. The Secretary would be required by January 1, 1991 to establish an electronic point-of-sale claims processing system for use by carriers and participating pharmacies. Participating pharmacies would be required to transmit information regarding all covered outpatient drugs dispensed to Medicare beneficiaries by such pharmacies regardless of deductible status.

The conferees consider the electronic billing system integral to the smooth administration of the prescription drug benefit. The conferees expect that the Secretary will devote the necessary resources to make the electronic system fully and successfully operational by January 1, 1991. Moreover, the conferees expect that the system will be thoroughly tested prior to that date.

(1)(D).—The conference agreement does not include the House or Senate provision.

(1)(E).—The conference agreement includes the Senate amendment.

(1)(F).—The conference agreement includes the Senate amendment.

(1)(G).—The conference agreement includes the Senate amendment with an amendment deleting the exemption for undue hardship. As noted above, the agreement requires the Secretary to implement an electronic point-of-sale system by January 1, 1991. The agreement further requires the Secretary to provide, upon request, such electronic equipment and technical assistance (other than costs associated with obtaining, maintaining, or expanding telephone service) as the Secretary determines may be necessary for a pharmacy to submit claims through the electronic system. Because the equipment would be provided where necessary an exemption for hardship cases is not needed.

The conference agreement requires participating pharmacies to provide information requested by the Secretary in conjunction with biannual surveys conducted by the Secretary to determine average wholesale prices. (see Item 10g).

All of the preceding requirements for participating pharmacies would be first effective for covered outpatient drugs dispensed on or after January 1, 1991. Claims for drugs dispensed during 1990 would be handled by existing Medicare carriers and the beneficiary's deductible status would be determined by these carriers as under current law.

The Secretary would have authority to specify claims processing and payment procedures in the event of temporary failure of the electronic claims processing system.

(2).—The conference agreement includes the Senate amendment with an amendment deleting the requirement that the Secretary submit lists of payment limit to pharmacies in advance of the payment calculation period.

(3).—The conference agreement includes the Senate amendment with a modification. The agreement provides that the audits would assure compliance with requirements for participation and would assure the accuracy of information submitted by pharmacies.

(4).—The conference agreement includes the Senate amendment with an amendment clarifying that the requirement to accept assignment begins at the point where the Secretary, through the electronic point-of-sale system or otherwise, notifies the pharmacy that the beneficiary has met the deductible.

(r) *Civil Monetary Penalty.*—The conference agreement includes the Senate amendment authorizing civil monetary penalties for pharmacies that charge Medicare beneficiaries more than they charge the general public. For purposes of this provision, the price charged to the general public is the pharmacy's price to a customer who is not a member of any group which has obtained a discounted price from that pharmacy, such as an HMO.

The conference agreement also authorizes civil monetary penalties for pharmacies that fail to provide information requested by the Secretary as part of the biannual survey of wholesale prices (see Item 10g).

(s) *Limitation to 60 Day Prescription.*—The conference agreement includes the Senate amendment with an amendment. No payment may be made for any expense incurred for a covered outpatient drug if it is dispensed in a quantity exceeding a 30 day supply, except that the Secretary may authorize a longer supply (not exceeding 90 days, except in exceptional circumstances). Such extended supply policies may apply to specific drugs or classes of drugs and may be subject to appropriate conditions as the Secretary may establish.

(t) *Additional Premium for Prescription Drug Benefit.*—See Item No. 15.

(u) *Use of Carriers in Administration.*—

(1) The conference agreement includes the Senate amendment with modifications.

Current law requires that a Medicare carrier be an insurer of health care services. The conference agreement waives this requirement and authorizes the Secretary to contract with other entities for implementation and operation of the electronic point-of-sale claims processing system and for related functions. Such entities include voluntary associations, corporations, partnerships, or other nongovernmental organizations. Such contracts may be on a regional basis.

If the Secretary requires a carrier to subcontract with such an entity for this purpose, the conferees expect the Secretary to take this arrangement into account in evaluating the carrier's performance. The failure of such entity to properly carry out its responsibilities should not adversely affect the carrier's performance rating.

The conferees further intend that the term "related functions" would apply to functions closely related to the implementation and operation of the electronic system, such as initial claims denials made through the system. Other functions, such as the handling of beneficiary inquiries and carrier fair hearings, would remain with the traditional Medicare carriers.

The agreement permits the Secretary to use fixed-price contracts for electronic claims processing (and related functions)

but requires the Secretary to: (i) publish in the Federal Register general criteria and standards used for evaluating contractors and provide opportunity for public comment; (ii) publish in the Federal Register any new policy or procedure that substantially affects the performance of contracts 30 days before such policy or procedure is to take effect; and (iii) negotiate necessary contractual modifications with contractors before requiring them to perform any additional functions.

The conferees expect that the Secretary would initially contract with more than one entity to establish more than one electronic system.

The agreement specifies that current law requirements regarding coordination of benefits payments with Medicare supplemental insurers will not apply to covered outpatient drugs until January 1, 1993.

(2) The conference agreement includes the Senate amendment with a modification. The agreement requires contractors processing claims for prescription drugs to provide for a monthly payment cycle. All claims received and approved for each participating pharmacy or individual submitting claims in the period since the previous payment date would be paid at the end of the payment cycle.

The conferees understand that under this system, claims would be paid, on average, 15 days after receipt. If payment is delayed more than 5 days after the requisite payment date, interest shall accrue until payment is made.

(3) The conference agreement includes the Senate amendment.

(v) *Modification of HMO/CMP Provisions.*—

(1) The conference agreement does not include the House provision or the Senate amendment.

(2) The conference agreement includes the Senate amendment.

(3) The conference agreement includes the Senate amendment.

(w) *Medicaid Requirements.*—See Item No. 33.

(x) *Beneficiary Drug Cost Survey and CBO Report.*—

(1) The conference agreement includes the Senate amendment with a modification. Data obtained from the 1987 National Medical Expenditure Survey (NMES) would be used in lieu of conducting a new survey. Based on this data, the Secretary would submit a report on expenses incurred by Medicare beneficiaries for outpatient drugs to Congress by April 1, 1989. Also by this date, the Secretary would provide the Director of the Congressional Budget Office any data from the survey that the Director may request to make the estimates required under subparagraph (2) below.

(2) The conference agreement includes the Senate amendment with an amendment specifying the CBO report is due by June 1, 1989, or 60 days after the date the Secretary provides the requested data under subparagraph (1). The report is to include estimated outlays and revenues (with projected trust fund balances) for the period from FY 1990 through FY 1993.

(3) The conference agreement does not include the Senate amendment.

(y) *Prescription Drug Payment Review Commission.*—The conference agreement includes the House provision with an amendment. The Commission is to be established by January 1, 1989. The conferees expect that one of the eleven commissioners would be associated with a brand name drug manufacturer while another would be associated with a generic drug manufacturer.

The Commission is directed to submit an annual report to Congress by May 1 of each year, beginning May 1, 1990. The report would concern methods of determining payment for the outpatient prescription drug benefit authorized under this legislation. Beginning in 1992, the annual report must include comments on both the budgetary status of the Federal Catastrophic Drug Insurance Trust Fund and recommendations for any changes necessary to reduce outlays in order to achieve the established contingency margin for the following year. These recommendations are to take into account the causes of increased or unanticipated outlays for covered drugs in the year.

Beginning in 1992, the annual report would also include information on increases in manufacturers' prices for prescription drugs, increases in pharmacies' charges for such drugs, utilization of the outpatient prescription drug benefit by beneficiaries, and administrative costs associated with the benefit.

(z) *Additional Studies.*—The conference agreement includes the Senate amendment with modifications. The requirement for a report on third party coverage is not included. The conferees note that under subparagraph (x) the Secretary is required to conduct a study of drug expenditures by the elderly. It is expected that the issue of third party coverage will be addressed in that study.

The conference agreement provides for a one-time study by the GAO which would include: (i) a comparison of average wholesale drug prices and actual acquisition costs by type of pharmacy; (ii) an analysis of the discounts offered by pharmacies to other third-party insurers; and (iii) an analysis of overhead costs of retail pharmacies. The study would be due to Congress by May 1, 1991.

Pharmacies participating in Medicare or Medicaid would be required to provide the GAO with reasonable access to records needed to conduct the study; non-compliance would be subject to exclusion from Medicare or Medicaid under Section 1128(a) of the Social Security Act. The conferees expect that the GAO would not release any data from the study in a manner which could be identified with individual pharmacies.

The conference agreement does not include a requirement for a study on the potential application of new claims processing and billing technologies. The conferees note that the agreement requires the Secretary to implement an electronic point-of-sale claims processing system.

The conference agreement requires a study of methods to improve utilization review of covered outpatient drugs. The study is due to the Congress by January 1, 1993.

The conference agreement does not include the requirement that the Secretary study alternative payment methodologies for covered outpatient drugs. The conferees note that under subparagraph (o) above, the conferees intend to request the Office of Technology Assessment to conduct a similar study.

The conference agreement also does not include the study on induced demand. The conferees expect that this issue will be addressed in the study required under subparagraph (x).

The conference agreement specifies that the longitudinal study of the use of covered outpatient drugs by Medicare beneficiaries is to be conducted as a follow-up to the 1987 NMES study. The report is due January 1, 1993.

The conference agreement expands the scope of the requisite study on experimental cancer drugs to include other experimental drugs and biologicals. This report is due January 1, 1990.

The conference agreement also requires the Secretary to study the potential of mail service pharmacies to reduce the cost of covered outpatient drugs for beneficiaries and for the Medicare program and to report to Congress by January 1, 1990.

(aa) *Study of the Treatment of Prescription Drugs.*—The conference agreement does not include the Senate amemdment.

(bb) *Simplification of Recordkeeping.*—The conference agreement includes the Senate amendment with modifications. The agreement requires the Secretary to develop a standard claims form and a standard format for electronically submitted claims to be used by Medicare and other third parties for covered outpatient drugs. The Secretary would consult with representatives of pharmacies and other interested individuals in developing these standards. The Secretary would be required to distribute official sample copies by October 1, 1989.

The conference agreement does not include the requirement for demonstration projects testing various electronic billing systems. The conferees note that the Secretary is required to implement a point-of-sale electronic claims processing system.

Effective Date.—Applies to items dispensed on or after January 1, 1990, except for the following.

Prompt payment requirements for carriers take effect on January 1, 1991, but are not to be construed as requiring payment before February 1, 1991, thereby permitting implementation of staggered billing cycles.

Provisions relating to modification of HMO/CMP contracts apply to new enrollments effective on or after January 1, 1990.

Diagnostic coding requirements apply to services furnished on or after April 1, 1989.

11. Coverage of Home Intravenous Drug Therapy (Section 7A of Senate amendment)

Present Law

(a) General.—Drugs and biologicals, which cannot be self-administered and which are furnished as an incident to a physician's professional service, are included within the definition of "medical and other health services," and are covered under Part B. Such coverage also includes antigens prepared by a physician and administered by or under the supervision of a physician.

(b) Payment.—No provision.

(c) Certification.—Except for certain inpatient or outpatient services provided by hospitals, payments for services to providers under Part B may only be made if a physician certifies (and recertifies where such services are furnished over an extended period) that the services are necessary.

(d) Certification of Providers.—The Secretary, in carrying out his functions related to determination of conditions of participation of providers of services, shall consult with appropriate national listing and accreditation bodies, and may consult with appropriate local agencies. If a State imposes higher requirements on institutions as a condition of payment under titles I, XVI, or XIX (Medicaid) of the Social Security Act, the Secretary shall impose like requirements under Medicare.

(e) Intermediate Sanctions for Home Intravenous Drug Therapy Providers.—No provision.

(f) Publication Requirement.—No provision.

House bill

No provision.

Senate amendment

(a) General.—Provides for Medicare coverage of intravenous drug therapies provided in the home. Home intravenous therapy is defined as items and services that: (1) are provided to an individual who is under the care of a physician; (2) are provided in the residence used as the individual's home; (3) are provided by a qualified home intravenous drug therapy provider or by others under arrangement with such provider; and (4) are provided under a plan established and periodically reviewed by a physician.

Coverage for home intravenous drug therapy includes nursing, pharmacy and related services as are necessary to safely and effectively conduct an intravenously administered anti-infective or cancer chemotherapeutic drug regimen through the use of a covered outpatient drug or use of any other intravenously administered drug which the Secretary (in consultation with providers, clinicians and consumers) determines may be safely provided in the home.

A qualified home intravenous drug therapy provider is defined as a home health agency certified by the Secretary as meeting certain conditions of particpation, or other entity certified by the Secretary as meeting certain conditions of participation. The conditions of participation require that the home health agency or other entity: (1) is capable of providing or arranging for the provision of home intravenous drug therapy; (2) maintains clinical records; (3) has written policies to govern the provision of services; (4) makes services available 24 hours per day, seven days a week as necessary; (5) coordinates all services with the patient's physician; (6) conducts a quality assessment and assurance program, including drug regimen review and coordination of patient care; (7) assures that only trained personnel provide chemotherapy or any other service where training is required to safely provide the service; (8) assumes responsibility for the quality of services provided by others under arrangements; and (9) meets such other conditions as the Secretary determines are necessary for the safe and effective provision of services and as necessary for the efficient administration of the benefit.

(b) Payment.—Requires the Secretary to establish a fee schedule for home intravenous drug therapy prior to the beginning of each calendar year, beginning prior to calendar year 1990. The fee schedule is to be established on a per diem basis. The fee schedule is to be based on a study of current reimbursement for similar items and services provided under Medicare, on the customary charges for such therapy, and on such other information as the Secretary deems appropriate.

Reimbursement for home intravenous drug therapy is 100 percent of the lesser of the actual charge and the fee schedule amount. Payments for these items and services is not subject to the annual Part B deductible amount.

(c) Certification.—Provides that coverage for home intravenous drug therapy is limited to cases in which a physician certifies that (1) such therapy is required by the individual, (2) a plan for furnishing the therapy has been established and is periodically reviewed by a physician, (3) the therapy is furnished while the individual is under the care of a physician, and (4) the therapy is provided in a place of residence used as the individual's home.

(d) Certification of Providers.—Adds home intravenous drug therapy providers to the list of providers for which the Secretary shall consult with appropriate State agencies and recognized national listing or accrediting bodies, and appropriate local agencies in determining the conditions of participation.

(e) Intermediate Sanctions for Home Intravenous Drug Therapy Providers.—Provides that the Secretary shall develop and implement "intermediate sanctions," in lieu of canceling the certification of the provider, that may be imposed for a period of up to one year against home intravenous drug therapy providers that are determined by the Secretary to no longer meet the conditions of participation. The Secretary shall provide appropriate appeals procedures relating to the imposition of such intermediate sanctions. The intermediate sanctions shall include civil money penalties and suspension of all or part of reimbursement amounts that would otherwise be made under Medicare. Such sanctions are in addition to sanctions otherwise available under State or Federal law.

The Secretary shall develop and implement specific procedures with respect to when and how each of the intermediate sanctions may be imposed, the amount of any fines and the severity of each penalty. The procedures are to be designed to minimize the time between the identification of violations and imposition of the sanction, and shall provide for the imposition of increasingly severe fines for repeated or uncorrected deficiencies.

(f) Publication Requirement.—Provides that the Secretary shall publish a list of categories of drugs that are considered covered outpatient drugs with respect to home intravenous drug therapy not later than January 1, 1990.

Effective date.—Applies to items and services furnished on or after January 1, 1990

Conference agreement

(a) *General.*—The conference agreement includes the Senate amendment with amendments.

Covered home IV drug therapy services include nursing, pharmacy, and related items and services (such as medical supplies, IV fluids, delivery, and equipment) as are necessary for the safe and effective administration of covered home IV drugs. Drug therapy services would not be subject to the Part B deductible or to coinsurance.

Drugs used for home IV drug therapy are not included in the definition of covered home IV drug therapy services, and are not included in the reimbursement for these services. Instead, these drugs are covered and reimbursed under the catastrophic prescription drug benefit. (See Item 10 concerning coverage of IV drugs).

A qualified home IV drug therapy provider must comply with requirements contained in the Senate provision. The conference agreement adds the requirement that the provider must adhere to written protocols with respect to provision of services and expands the requirement pertaining to use of trained personnel to cover provision of all home IV drugs. Further, the entity must be licensed, or approved as meeting the requirements for licensure, if State or local law provides for licensure of home IV drug providers.

A home health agency may qualify as a home IV drug therapy provider if it meets these requirements. In this case, the home health agency would not have to be recertified with respect to any conditions that it had previously met to be certified as a home health agency.

(b) *Payment.*—The conference agreement includes the Senate amendment with amendments. Under the agreement, Medicare payment would be the lower of the provider's actual charge or the fee schedule amount.

The fee schedule would be established by the Secretary by regulation before January 1, 1990 and would provide payment on a per diem basis. In establishing the fee schedule, the Secretary could consider cost information, charge information, and payment rates for similar items and services covered under Medicare. The Secretary could not, however, require routine cost reporting.

The conference agreement provides the Secretary with broad flexibility in establishing the fee schedule. The conferees expect that the Secretary will use this flexibility to establish a fee schedule which assures adequate access to services while preventing excessive payments. The conferees note that exclusive reliance on customary charges has previously resulted in excessive reimbursement levels for similar services.

The conferees expect that the availability of home IV therapy will facilitate shorter hospital lengths of stay for a variety of illnesses. The conference agreement therefore requires the Prospective Payment Assessment Commission to study and report to the Congress and the Secretary by March 1, 1991 concerning adjustments to DRG payments which may be appropriate in view of the expected savings to hospitals.

Finally, the conference agreement prohibits a home IV therapy provider from providing services to a Medicare beneficiary based on a referral from a physician who has an ownership interest in, or receives compensation from, the provider. The prohibition would also apply to ownership or compensation arrangements involving an immediate family member of the referring physician. The referring physician is the physician who prescribes the home IV drug therapy or establishes the plan of care for such therapy.

Several exceptions to this prohibition are provided: (i) ownership of publicly traded stock purchased on terms available to the general public; (ii) sole community rural home IV therapy providers as defined by the Secretary; (iii) compensation reasonably related to items or services actually provided by the physician which does not vary in proportion to the number of referrals made; (iv) physicians whose only relationship with the provider is as an uncompensated officer or director of the provider; and (v) other exceptions established by the Secretary by regulation, for ownership or compensation arrangements which the Secretary determines do not pose a substantial risk of program abuse. The exception under clause (iii) would not apply for compensation paid by the home IV provider to the referring physician for direct patient care services. It is expected that the physician would bill Medicare (or the beneficiary) for such services.

Payment would be denied for services provided pursuant to a prohibited referral. The home IV provider would also be prohibited from billing for such services on an unassigned basis. Moreover, a physician who

knowingly and willfully makes a prohibited referral or a provider who knowingly and willfully accepts such a referral would subject to civil monetary penalties of up to $15,000 for each such referral and/or exclusion from the Medicare program.

The conferees intend that this prohibition not be construed in any way as altering (or reflecting on) the scope and application of the anti-kickback provisions contained in Section 1128B of the Social Security Act.

The conferees are aware of the growing prevalence of physician ownership and compensation arrangements which are developed and marketed by providers of medical services. These arrangements are often initiated with the intent of binding together the financial interests of referring physicians with those of the providers.

Because of the resulting economic alliance, physicians are less likely to exercise independent judgment in making referral recommendations. Moreover, such alliances pose a risk of inducing over utilization even if the physician's income does not vary in proportion to the number of referrals made.

Some of these arrangements may involve indirect referral fees. Investment opportunities may be restricted to physicians who are able to refer substantial business to the provider, and such investments often have returns which are substantially higher than what would be expected for comparable investments.

For these reasons, the conference agreement includes a requirement that the HHS Inspector General conduct a study of physician ownership of, and compensation by, other suppliers of Medicare covered services to which they make referrals. The report would (i) include a description of the full range of such arrangements and the means by which they are marketed to physicians; (ii) evaluate the potential of such arrangements to influence physician decisionmaking and to result in inappropriate utilization; (iii) assess the practical difficulties involved in enforcement actions under current anti-kickback provisions; and (iv) make recommendations regarding possible changes in the law to strengthen protections against program abuse. The report would be due to Congress by May 1, 1989.

(c) *Certification.*—The conference agreement includes the Senate amendment with an amendment.

The conference agreement requires that all home IV therapy services be reviewed and approved for medical necessity and quality by a Peer Review Organization (PROs) during a three-year period (1990–1992).

Prior approval by a PRO is required for home IV therapy initiated immediately upon hospital discharge. Except in exceptional circumstances (specified by the Secretary), home IV therapy services initiated on an outpatient basis (without a preceding hospital stay) must be approved by the PRO within one working day after the initiation of therapy. PROs would be required to complete reviews within one working day of receipt of a request for review.

To assure the validity and uniformity of PRO reviews, the conference agreement requires the Secretary to establish criteria that would be used by PROs in conducting reviews with respect to the appropriateness of home IV therapy services. Such criteria should assure that beneficiaries are discharged from hospitals to home IV therapy only if this is appropriate from a medical standpoint and the patient (or a family member) is able to carry out the home care regiment properly.

The conferees expect that after 1982, the Secretary could require PROs to conduct some focused reviews and could require prior approval in appropriate circumstances.

(d) *Certification of Providers.*—The conference agreement includes the Senate amendment with a clarifying amendment specifying that a home IV drug therapy provider is a "provider" of services as defined under Medicare.

The conference agreement further requires the Secretary, in consultation with State agencies and other organizations to develop conditions of participation for home IV drug therapy providers.

(e) *Intermediate Sanctions for Home Intravenous Drug Therapy Providers.*—The conference agreement includes the Senate amendment.

(f) *Publication Requirement.*—The conference agreement includes the Senate amendment.

Effective date.—Applies to services furnished on or after January 1, 1990.

12. In-Home Care for Certain Chronically Dependent Individuals (Section 203 of House bill)

Present law

No provision.

House bill

(a) Services Covered.—Adds a new benefit to Part B of Medicare: in-home care for a chronically dependent individual for up to 80 hours in any calendar year. [Such care provided on any day for 3 hours or less is counted as 3 hours.]

Defines "in-home care" as including (1) services of a homemaker/home health aide (who has successfully completed a training program approved by the Secretary); (2) personal care services; and (3) nursing care provided by a licensed professional nurse. Requires that these services be furnished, under the supervision of a registered professional nurse, by a home health agency or others under arrangements with the agency. Also requires that the services be furnished in a place of residence used as the chronically dependent individual's home.

(b) Persons Eligible.—Provides that the above services be available to chronically dependent individuals who are Medicare beneficiaries. Defines "chronically dependent individual" as a person who (1) is dependent on a daily basis on a primary caregiver who is living with the individual and is assisting the individual without monetary compensation in the performance of at least 2 specified activities of daily living (ADLs); and (2) without this assistance could not perform these ADLs. Specifies that the individual be dependent in at least 2 of the following ADLs: eating, bathing, dressing, toileting, or transferring in and out of a bed or in and out of a chair.

(c) Payment.—Provides that payment for in-home services be made on the basis of hourly rates based on reasonable costs of furnishing care.

Requires the Secretary to provide for an appropriate adjustment to payment rates for prepaid health plans paid on a reasonable cost basis to reflect the new catastrophic protection. The adjustment is to reflect: (1) the aggregate increase in payments which would otherwise be made for enrollees if they were not enrolled in the organization; or (2) the amount that would be paid to the organization or facility if payments were made on an individual by individual basis. The organization is required to provide assurances, satisfactory to the Secretary, that it will not undertake to charge an individual more than 20 percent of reasonable costs plus any deductible amounts.

(d) Certification.—Requires a physician to certify, in the case of in-home services provided to a chronically dependent individual during a 12-month period, that the individual was chronically dependent during the immediately preceding 3-month period.

(e) Standards for Utilization.—Specifies that payment may not be made for in-home care for chronically dependent individuals unless such care is reasonable and necessary to assure the health and condition of the individual is maintained in the individual's non-institutional residence. The Secretary is required to take appropriate efforts to assure the quality and provide for the appropriate utilization of in-home care for chronically dependent individuals.

(f) Study of Alternative Out-of-Home Services.—Requires the Secretary to study and report to Congress, within 18 months of enactment, on the advisability of providing to chronically dependent individuals (eligible for services under this provision) with out-of-home services (such as adult day health services or nursing facility services) as an alternative to in-home care.

(g) Study of In-Home Care.—Requires the Secretary to study and report to Congress by June 1, 1991, on the extent of use, cost, and effectiveness of in-home care provided chronically dependent individuals under this provision. [See also item 25]

Effective date.—(a) through (e) apply to items and services furnished on or after January 1, 1989, and before January 1, 1992. Study provisions (f) and (g) effective on enactment.

Senate amendment

No provision.

Conference agreement

(a) *Services Covered.*—The conference agreement includes the House provision, with the amendment noted below regarding the 12-month period of eligibility for the services.

(b) *Persons Eligible.*—The conference agreement includes the House provision, with an amendment. It retains the definition of chronically dependent individual. However, such an individual qualifies for these services only if the individual has been determined either: (i) to have incurred expenses for Part B coinsurance and deductible payments in an amount equal to the catastrophic limit on Part B cost-sharing for the year; or (ii) to have incurred expenses for covered outpatient drugs equal to the outpatient drug deductible for the year. In-home services would then be available to such a beneficiary for 12 months from the date the beneficiary was determined by the Medicare carrier to have incurred such expenses.

If a beneficiary met a second limit within twelve months after meeting a prior limit, this would initiate a new twelve month period of eligibility. In this situation, the beneficiary would be entitled to receive up to 80 hours of care during the new eligibility period, but could not carryover any hours not used during the prior eligibility period. Moreover, in no event, could a beneficiary receive more than 80 hours of care during a calendar year.

An individual receiving these services would be responsible for 20 percent coinsurance, notwithstanding that he or she had already met the Part B catastrophic limit in the current year. However, these coinsurance payments could be counted towards

the catastrophic limit, during the calendar year in which they were incurred.

The Secretary would be required to take appropriate measures to assure that HMO members who would otherwise qualify for this benefit are properly identified.

(c) *Payment.*—The conference agreement includes the House provision.

(d) *Certification.*—The conference agreement includes the House provision.

(e) *Standards for Utilization.*—The conference agreement includes the House provision.

(f) *Study of Alternative Out-of-Home Services.*—The conference agreement includes the House provision.

(g) *Study of In-Home Care.*—The conference agreement does not include the House provision.

Effective Date.—The conference agreement applies to services furnished on or after January 1, 1990.

13. Extending Home Health Services (Section 204 of House bill; Sections 7 and 8 of Senate amendment)

Present law

(a) Intermittent/Daily Home Health Care.—Home health services are covered under Medicare if the services are required because the individual is homebound and requires skilled nursing care on an intermittent basis or physical or speech therapy. Current program guidelines specify that to meet the requirement for intermittent skilled nursing care, an individual must have medically predicable recurring need for skilled nursing services. The guidelines define "intermittent" as permitting daily skilled nursing visits for up to eight hours a day for up to two or three weeks if medically reasonable and necessary. Daily is defined as five, six, or seven days per week.

(b) Homebound.—Comparable provision included in the Omnibus Budget Reconciliation Act of 1987, section 4024 of Public Law 100-203.

House bill

(a) Intermittent/Daily Home Health Care.—Specifies that nursing care and home health aide services are considered intermittent if they are furnished less than 7 days a week. These services may be provided 7 days a week for an initial period up to 35 consecutive days. More than 35 consecutive days may be covered if the physician certifies that exceptional circumstances require additional care on a daily basis.

Effective date.—(a) Applies to services furnished on or after January 1, 1989.

Senate amendment

(a) Intermittent/Daily Home Health Care.—Provides that nursing care and home health aide services may be provided 7 days a week (with one or more visits per day) for up to 21 days with a physician's certification of the need for such care. For a beneficiary enrolled in Part B, up to 45 days of consecutive care would be allowed if he was discharged from a hospital or skilled nursing home within 30 days prior to beginning home health care.

Effective date.—(a) Applies to items and services furnished after December 31, 1987.

Conference agreement

(a) *Intermittent/Daily Home Health Care.*—The conference agreement includes the Senate amendment with a modification. The agreement provides that nursing care and home health aide services may be provided 7 days a week (with one or more visits per day) for up to 38 consecutive days. The conferees intend that current coverage policies which allow for additional days of care under unusual circumstances would continue to be covered under Medicare.

The conference agreement further extends the favorable presumption under the waiver of liability provisions for skilled nursing facilities and home health agencies. The Secretary is prohibited from modifying the presumption criteria for these waivers through October 1990.

The conference agreement requires the Administrator of the Health Care Financing Administration to appoint an 11 member Advisory Committee on Home Health Claims. At least five members shall be representatives of home health agencies or visiting nurse associations. The remaining members are to be representative of physicians' groups, senior citizens' groups and fiscal intermediaries, with no more than 3 members representative of fiscal intermediaries. The advisory committee is to study the reasons for the increase in the denial rate for home health claims during 1986 and 1987, the ramifications of such increase, and the need to reform the process involved in such denials. A report on the committee's findings is due to the Health Care Financing Administration and to the Congress within one year of enactment.

(b) *Homebound.*—The conference agreement does not include the Senate provision. The conferees note that a comparable provision was included in the Omnibus Budget Reconciliation Act of 1987.

Effective date.—The conference agreement applies to home health services furnished on or after January 1, 1990.

14. Increase in Maximum Payment Allowed for Outpatient Mental Health Services (Section 205 of House bill)

Present law

A special limit is applicable with respect to expenses incurred in a calendar year in connection with the treatment of a mental, psychoneurotic or personality disorder of a beneficiary who is not an inpatient of a hospital at the time services are rendered. Medicare recognizes 62.5 percent of reasonable charges for such services. It pays 80 percent of the recognized amount up to a maximum of $250. The Omnibus Budget Reconciliation Act of 1987 increases the maximum payment amount to $450 in 1988 and $1,100 in 1989.

House bill

Increases the medicare outpatient mental health payment limit to $1,000.

A maximum of $250 in out-of-pocket expenses may be counted toward the catastrophic limit. The effective beneficiary coinsurance rate remains the same.

Effective date.—Applies to expenses incurred for services furnished on or after January 1, 1989.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision. The conferees note that a provision was included in Section 4070 of the Omnibus Budget Reconciliation Act of 1987 which increased the maximum payment amount for mental health services beyond that provided in this legislation.

15. Adjustments in Medicare Part B Premium (Section 206 of House bill; Sections 5 and 27 of Senate amendment)

Present law

(a) Part B Premiums.—Under current law, premiums for Medicare Part B are charged to Part B enrollees on a monthly basis according to an amount established in advance for each calendar year. The monthly Part B premium for 1988 is $24.80.

During September of each year, the Secretary determines the monthly actuarial rate for the succeeding calendar year for Part B enrollees age 65 and over equal to one-half of the benefits and administrative costs for aged Part B enrollees, including a contingency margin.

The Secretary also determines during September of each year the monthly actuarial rate for disabled enrollees under age 65 for the succeeding calendar year equal to one-half of the benefits and administrative costs estimated to be payable from the Part B trust fund for services and related administrative costs for disabled enrollees under age 65, including a contingency margin.

The current method of determining the monthly premium (temporarily in effect for 1984-89) is to use a formula that sets the premium rate at 50 percent of the monthly actuarial rate for enrollees age 65 and over (i.e., 25 percent of the amount needed to cover program costs for aged beneficiaries). Disabled enrollees pay the same premium.

If there is no Social Security cost-of-living increase (COLA) in a year, the Part B premium is not increased that year. For 1986-89, a beneficiary who has his Part B premium deducted from his Social Security check and experiences a premium increase that is greater than the COLA adjustment, the premium increase is reduced to avoid a reduction in the individual's Social Security check.

Beginning January 1, 1990, the premium will be calculated according to prior law, which provided that the premium would be the lower of: (1) an amount sufficient to cover one-half of the costs of the program for the aged, or (2) the current premium amount increased by the Social Security COLA.

(b) Catastrophic Coverage Premium.—No provision.

(c) Premium for Prescription Drug Benefit.—No provision.

(d) Benefit Premium for In-Home Care Benefit.—No provision.

(e) Monthly Premiums for Residents of U.S. Commonwealths and Territories.—All Medicare beneficiaries voluntarily enrolled in Part B are subject to the same Part B premium payment rules and receive the same Medicare benefits, including those residing in the U.S. commonwealths and territories. An individual need not be entitled to Part A benefits to voluntarily enroll in Part B.

(f) Monthly Premiums for Individuals Enrolled Under Part B But Not Entitled to Benefits Under Part A.—All Medicare beneficiaries voluntarily enrolled in Part B are subject to the same Part B premium payment rules and receive the same Medicare benefits, including those not entitled to benefits under Part A.

(g) Transfers to Catastrophic Health Insurance Trust Fund.—No provision.

House bill

(a) In General.—Provides for increases to the monthly Part B premium to finance the catastrophic coverage benefit (through the transitional adjustment in 1991 and 1992), the prescription drug benefit (beginning in 1989), and the in-home care benefit (in 1989, 1990, and 1991).

(b) Catastrophic Coverage Premium.—

(1) Premium Amount.—Provides for a transitional adjustment increase to the

monthly Part B premium otherwise determined of $1.00 in 1991 and $1.30 in 1992.

(2) Indexing.—Provides that the transitional increase in 1991 will not be taken into account when determining Part B increases in subsequent years under section 1839(a)(3), but the transitional increase in 1992 will be taken into account when determining Part B increases in 1993 and each subsequent year.

(c) Premium for Prescription Drug Benefit.—Amends section 1839 (amount of the Part B premium) to provide for an additional monthly premium for the prescription drug benefit.

(1) Premium Amount.—Provides that the basic monthly drug premium increase for a year is, subject to certain limits, the monthly actuarial rate. The monthly actuarial rate for the prescription drug benefit for 1989 is $2.30.

Provides that for subsequent years, the Secretary will determine in September of each year, beginning with 1989, (a) the total benefits and administrative costs estimated to be paid from the Part B trust fund for each succeeding year for covered outpatient drugs and related administrative costs, and (b) a monthly actuarial rate for covered outpatient drugs applicable for the succeeding calendar year estimated so that the aggregate amount of the increase in drug premiums collected or received for such year will equal 75 percent of the total estimated cost of drug benefits and administrative costs.

Requires the Secretary to determine in September of each year, beginning in 1990, the aggregate amount of the increase in drug premiums collected or received during the previous year, the total benefits and administrative costs paid from the Part B trust fund during the previous year for covered outpatient drugs and related administrative costs, and whether the premiums were greater or less than 75 percent of the total paid from the Part B trust fund for drugs. Provides that if the Secretary determines that there was a surplus or deficit in the previous year, the monthly actuarial rate for covered outpatient drugs for the succeeding calendar year must be adjusted by the amount of the surplus or deficit.

If the drug premium increase is not a multiple of 10 cents, it will be rounded to the nearest multiple of 10 cents.

Requires the Secretary in September of each year beginning with 1989 to determine, for purposes of calculating the prescription drug factor used to adjust the supplemental premium yearly, the total monthly drug premium increases estimated to be collected or received in the succeeding year. The calculation is to be made as if the monthly actuarial rate (without regard to any adjustment for surplus or deficit in the previous year) were substituted for the basic monthly drug premium increase.

(2) Limit on Drug Benefit Premium Amount.—Provides a limit on the basic monthly drug premium amount as follows: not to exceed $3.40 in 1990, and in 1991 and subsequent years, not to exceed 120 percent of the basic monthly drug premium increase for months in the preceding year.

(3) Definitions.—No provision.

(4) Report on Projected Excess Premium Increases.—Requires the Secretary to report to Congress in May of each year beginning with 1990 concerning whether the Secretary anticipates that the monthly actuarial rate for the drug benefit for the succeeding year will exceed the limit on the basic monthly drug premium increase for that year. If so, the Secretary is required to include in the report recommendations for changes in policies under Part B sufficient to reduce Part B expenditures for covered outpatient drugs for the succeeding year so that the monthly actuarial rate (as reduced by such expenditure reductions) will not exceed the limit on the basic monthly drug premium amount for the year.

(d) Premium for In-Home Care Benefit.—

(1) Premium Amount.—Requires the Secretary, during September of 1988, 1989, and 1990, to determine (1) the total benefits and related administrative costs estimated to be paid from the Part B trust fund in the succeeding calendar year for in-home care, and (2) a monthly actuarial rate for in-home care applicable in the succeeding calendar year. The monthly actuarial rate, subject to the adjustment described below, is an amount the Secretary estimates would be necessary so that the aggregate amount of the increase in premiums collected or paid for the year will equal 100 percent of the total benefits and administrative costs paid from the Part B trust fund.

Requires the Secretary in September of 1990, to determine the aggregate amount of the monthly premium increases collected or received for the in-home care benefit during the previous year, the total benefits and administrative costs which were paid in the previous year from the Part B trust fund for in-home care, and whether the amount of the premiums is greater or less than 100 percent of the total costs.

Provides that if the Secretary determines that there was a surplus or deficit in 1989, the Secretary must adjust the monthly actuarial rate otherwise determined for in-home care for 1991 to reduce or increase the aggregate amount of the monthly premium increase accordingly.

Provides that the monthly Part B premium of each individual enrolled in Part B for each month in a year after December 1988 and before January 1992 will be increased by the monthly actuarial rate for that year for the in-home care benefit, except that if the increase is not a multiple of 10 cents, it will be rounded to the nearest multiple of 10 cents.

(2) Limit on In-Home Care Benefit Premium Amount.—Provides that the increase in the monthly premium for the in-home benefit may not exceed in 1989, $0.30; in 1990, $0.50; and in 1991, 120 percent of the monthly premium increase in 1990. If the monthly actuarial rate for 1991 exceeds 120 percent of the monthly premium increase in 1990, the Secretary is required to decrease the maximum number of hours of in-home care in 1991 by such an amount that will assure that the aggregate amount of the monthly premium increase collected or paid for 1991 for all enrollees is equal to the total benefits and administrative costs estimated to be paid from the Part B trust fund in 1991 for in-home care.

Provides for certain conforming amendments.

(e) Monthly Premiums for Residents of U.S. Commonwealths and Territories.—

(1) Part B Premium.—Provides a separate Part B premium calculation for Medicare beneficiaries who are residents of a commonwealth or territory, defined as Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Northern Mariana Islands.

For such residents during a month in 1988 or 1989, their monthly Part B premium otherwise determined is increased by one-twelfth of the product of: the average per capita additional benefits and related administrative costs due to the amendments in this bill, excluding benefits under section 202 (prescription drugs and insulin) and section 203 (in-home care), as determined by the Secretary during September of the previous year, times the following ratio. The ratio (determined by the Secretary for that commonwealth or territory during September 1987) is (1) the per capita actuarial value of Medicare benefits for residents of the commonwealth or territory who are entitled to both Part A and Part B benefits, divided by (2) the per capita actuarial value of the Medicare benefits for residents of the United States who are entitled to both Part A and Part B benefits.

Provides that for 1990, the monthly Part B premium for such residents would be the monthly Part B premium otherwise determined for months in 1989, plus the increase for 1989 described above, increased by the Social Security COLA percentage increase for 1990.

For succeeding years, the Part B premium is the previous year's monthly amount, increased by the Social Security COLA for that year.

Provides that if any premium amount is not a multiple of 10 cents, it is rounded to the nearest multiple of 10 cents.

(2) Drug Premium for Residents of Commonwealth or Territories.—Provides that for residents of a commonwealth or territory, the monthly Part B premium is increased by the product of 133⅓ percent of the basic monthly drug premium for that year, times the ratio determined by the Secretary for that commonwealth or territory. The ratio is the per capita actuarial value of Medicare benefits for residents of the commonwealth or territory entitled to Medicare Part A and Part B, divided by the per capita actuarial value of Medicare benefits for residents of the United States entitled to Medicare Part A and Part B.

(f) Monthly Premiums for Individuals Enrolled Under Part B But Not Entitled to Benefits Under Part A.—

(1) Part B Premium.—Provides a separate Part B premium calculation for Part B only individuals. Defines such persons as those who: (1) are not residents of a commonwealth or territory as defined in the bill; (2) are entitled to Part B benefits; and (3) are not entitled to, or on application without payment of an additional premium would not be entitled to, benefits under Part A.

Provides that in 1989, the monthly Part B premium is the monthly Part B premium otherwise determined under current law, increased by one-twelfth of the per capita additional benefits and related administrative costs that the Secretary estimates will be paid under Part B during 1989 because of the amendments made by this bill, excluding benefits under section 202 (prescription drugs and insulin) and section 203 (in-home care).

Provides that in 1990, the monthly Part B premium is the 1989 monthly premium otherwise determined under section 1839(a)(3), plus the increase for 1989 determined above, increased by the percentage increase in the Social Security COLA for 1990. For succeeding years, provides that the monthly Part B premium is the amount for months in the previous year increased by the percentage increase in the Social Security COLA for that year. If any amount is not a multiple of 10 cents, it will be rounded to the nearest multiple of 10 cents.

(2) Drug Premium for Part B Only Individuals.—Provides that for individuals enrolled under Part B but not entitled to benefits under Part A, the monthly Part B pre-

mium will be increased by 133⅓ percent of the basic monthly drug premium increase for that year.

(g) Transfers to Catastrophic Health Insurance Trust Fund.—No provision.

Effective date.—Provides that the transitional adjustment described in (b), above, applies to monthly premiums for months beginning with January 1991; (c) (related to premiums for the prescription drug benefit) applies to monthly premiums for months beginning with January 1989; (d) (related to premiums for in-home care) applies to monthly premiums for months beginning with January 1989 and ending with December 1991; (e) (related to premiums for residents of commonwealths and territories) applies to monthly premiums for months beginning with January 1988; and (f) (related to premiums for Part B only individuals, and for the conforming amendments) applies to monthly premiums for months beginning with January 1989.

Senate amendment

(a) In General.—Provides for increases to the monthly Part B premium to finance the catastrophic coverage benefit (beginning in 1988) and the prescription drug benefit (beginning in 1990).

Provides that the Part B premium would be calculated as under current law, except that the monthly actuarial rate for aged enrollees and for disabled enrollees would be referred to as the monthly actuarial basic rate for each group, respectively, and that such rate would exclude the costs of comprehensive catastrophic coverage benefits (defined as those payable by Medicare as a result of the enactment of sections 2(a), 3(a), 7(b), 7A, and 11 of this bill) and related administrative costs.

Suspends hold harmless provision for 1988 and reimposes hold harmless for 1989 and thereafter.

(b) Catastrophic Coverage Premium.—

(1) Premium Amount.—Provides that the monthly catastrophic coverage premium amount for 1988 for individuals covered by Part A and Part B of Medicare is $4.

(2) Indexing.—Provides that the monthly coverage premium amount for succeeding calendar years is the previous year's amount, increased by the following percentage. The percentage equals:

(a) the percentage (if any) necessary to increase the estimated total revenues collectible from the monthly catastrophic coverage premiums and the supplemental premiums (determined without regard to the drug premium rate adjustment amount) for the succeeding year by the amount by which the estimated total catastrophic coverage benefits and related administrative costs (including administrative costs for outpatient drug coverage) for such succeeding year exceed such revenues, plus

(b) a percentage related to establishing and maintaining a contingency or a reserve fund.

Provides that the percentage increase for a contingency or a reserve fund for a calendar year before 1993 is the percentage the Secretary determines to be necessary to ensure that before 1993 there is established a contingency fund equal to 20 percent or (if greater) a reserve fund equal to 5 percent. For calendar years after 1992, the percentage is the percentage necessary to maintain either of such funds at such percentages.

Defines "contingency fund" for any calendar year as the percentage determined by dividing (1) the amount of unexpended catastrophic coverage premiums and supplemental premiums (without regard to the drug premium rate adjustment amount) as determined at the end of such year, by (2) the actuarial comprehensive catastrophic benefit amount for the succeeding calendar year.

Defines "reserve fund" for any calendar year as the percentage determined by dividing (1) the amount of unexpended and unobligated catastrophic coverage premiums and supplemental premiums (without regard to the drug premium rate adjustment amount) as determined at the end of such year, by (2) the actuarial comprehensive catastrophic benefit amount for the succeeding calendar year.

Provides that if any monthly premium amount is not a multiple of 10 cents, it will be rounded to the nearest multiple of 10 cents.

Defines "catastrophic coverage benefits" as the benefits payable by Medicare because of the enactment of the catastrophic coverage provisions in section 2(a), 3(a), 4 and 7(b) of this bill.

Defines "actuarial comprehensive catastrophic benefit amount" for any calendar year as the amount that the Secretary estimates will equal the total of the catastrophic coverage benefits (and related administrative costs) that will be payable from the Federal Catastrophic Health Insurance Trust Fund in that calendar year for Part B enrollees.

Provides that for calendar years after 1988, for enrollees who were entitled to Social Security benefits for November and December of the preceding year and who have the Part B premium deducted from their Social Security checks for December and January, their monthly Part B premium cannot be increased due to the catastrophic benefits if such increase would reduce their Social Security Benefits payable for that January below the benefits payable for that December (after the deduction of the Part B premium).

(c) Premium for Prescription Drug Benefit.—Amends Section 1839 (amount of the Part B premium) to provide that the Part B premium be increased by the monthly catastrophic drug benefit premium amount for the prescription drug benefit:

(1) Premium Amount.—Provides that the monthly catastrophic drug benefit premium amount for any calendar year after 1989 for individuals who are covered by Part B will be an amount equal to 50 percent (40 percent for calendar year 1990 and 45 percent for calendar year 1991, as provided in section 27 of the bill) of the per enrollee actuarial catastrophic drug benefit amount for such year, plus (a) in calendar year 1990, an amount necessary to cover 7.5 percent of the per enrollee actuarial catastrophic drug benefit amount for 1991 (for a contingency fund), and (b) for calendar years after 1990, an amount (when added to any unexpended amount in the contingency fund for the previous year) necessary to cover 7.5 percent of the per enrollee actuarial catastrophic drug benefit amount for such calendar year.

Provides in section 27 of the bill that for calendar years after 1990, if the Secretary determines that (a) it is appropriate to increase the contingency fund to assure a smooth transition from cash outlays accounting to costs incurred accounting over a multiyear period, and (b) the monthly catastrophic drug benefit premium amount for that year is less than the drug premium limit, the Secretary is authorized to increase the drug premium by no greater than 15 percent, not to exceed the drug premium limits in the bill. Once the transition has been completed, requires the Secretary to maintain the drug benefit contingency fund on the basis of such cost incurred accounting method.

Provides that if the monthly drug benefit premium amount is not a multiple of 10 cents, it will be rounded to the nearest multiple of 10 cents.

(2) Limit on Drug Benefit Premium Amount.—Provides that in calendar years after 1991, the monthly catastrophic drug benefit premium amount cannot exceed $0.90 for 1990 (as provided in section 27 of the bill), $2.00 for 1991, $3.50 for 1992, $4.05 for 1993 (as provided in section 27 of the bill), and for any succeeding year, the amount for the preceding year increased by the percentage by which the Part B beneficiary drug expenditure amount for the 12-month period ending in August in that preceding year exceeds the Part B beneficiary drug expenditure amount for the 12-month period ending in August in the second preceding year.

(3) Definitions.—Defines "catastrophic drug coverage benefits" to mean benefits payable under Part B of Medicare because of the enactment of section 7A (coverage of home intravenous drug therapy) and section 11 (coverage of catastrophic expenses for prescription drugs) of this bill.

Defines "per enrollee actuarial catastrophic drug benefit amount" to mean, with respect to a year, an amount equal to the actuarial catastrophic drug benefit amount for the year divided by the total number of individuals that the Secretary estimates will be enrolled under Part B for the year.

Defines "actuarial catastrophic drug benefit amount" to mean, with respect to a calendar year, the amount that the Secretary estimates will equal the total of the catastrophic drug coverage benefits (and related administrative costs) that will be paid in cash outlays from the Federal Catastrophic Drug Insurance Trust Fund in such calendar year for Part B enrollees.

Defines "Part B beneficiary drug expenditure amount" to mean, with respect to a 12-month period, the average per capita amount expended for a period on outpatient prescription drugs by Part B enrollees (other than such enrollees enrolled in a health maintenance organization, a competitive medical plan, or a health care prepayment plan).

(4) Report on Projected Excess Premium Increases.—No provision. (See section 11 of the Senate amendment relating to Secretarial authority to institute cost control measures to assure that the drug premiums do not exceed the premium limits.)

(d) Premium for In-Home Care Benefit.—No provision.

(e) Monthly Premiums for Residents of U.S. Commonwealths and Territories.—No provision.

(f) Monthly Premiums for Individuals Enrolled Under Part B But Not Entitled to Benefits Under Part A.—

(1) Part B Premium.—Provides that the monthly castastrophic coverage premium amount (which is added to the monthly Part B premium otherwise determined) for individuals who are covered by Part B but not by Part A is an amount that bears the same ratio to the monthly catastrophic coverage premium amount for individuals covered by both Part A and Part B of Medicare, as the actuarial Part B catastrophic benefit amount for that year bears to the actuarial comprehensive catastrophic benefit amount for that year.

Defines the actuarial Part B catastrophic benefit amount for a calendar year as the amount the Secretary estimates will equal the catastrophic coverage benefits and related administrative costs payable from the Federal Catastrophic Health Insurance Trust Fund for that year with respect to such enrollees (excluding any amounts attributable to changes under Sections 2(a), 3(a), and 7(b) of this bill in services performed and related administrative costs incurred in that year for individuals covered under Part A).

Provides that if the monthly premium amount is not a multiple of 10 cents, it will be rounded to the nearest multiple of 10 cents.

(2) Drug Premium for Part B Only Individuals.—No provision. (The drug premium for Part B only individuals is calculated in the same manner as for Medicare beneficiaries covered by both Part A and Part B).

(g) Transfers to Catastrophic Health Insurance Trust Fund.—Provides that there will be transferred from time to time from the Part B trust fund to the Federal Catastrophic Health Insurance Trust Fund amounts from Part B premiums that are attributable to the catastrophic coverage changes in services performed and related administrative costs incurred in a calendar year (under sections 2(a), 3(a), and 7(b) of this bill).

Provides that there will be transferred from time to time from the Part B trust fund to the Federal Catastrophic Drug Insurance Trust Fund amounts from the catastrophic drug benefit premiums.

Effective date.—Applies to premiums for months beginning after December 31, 1987.

Conference agreement

(a) *In General.*—The conference agreement provides for increases to the monthly Part B premium otherwise determined to finance the catastrophic coverage benefit and the prescription drug benefit. For 1993, revenues from the additional flat Part B premium are estimated to provide approximately 37 percent of the financing for the catastrophic coverage and prescription drug benefits, with the supplemental premium (see section 7, above) providing an estimated 63 percent of revenues. After 1993, the conferees intend that the proportion contributed by the flat premium will be 37 percent; however, the proportion could vary as a result of limits on the allowable change in the supplemental premium.

The conference agreement requires the Secretary of Health and Human Services and the Secretary of the Treasury jointly to (1) publish in the Federal Register, by not later than July 1 of each year beginning with 1993, a notice of the proposed preliminary catastrophic coverage and prescription drug monthly premiums for the following year; (2) report to Congress by no later than September 1 of each year the final premiums for the following year; and (3) publish in the Federal Register during the last three days in September of each year the final premiums for the following year.

The flat premium is adjusted to account for any changes in the supplemental premium resulting from limits specified in this Act (see section 7 for a description of these limits). The adjustment to the flat rate premium is calculated in three steps. First, the current year actual supplemental premium rate is subtracted from what the supplemental premium rate would have been if it had not been adjusted by the limits. This difference is known as either the excess or the shortfall rate. Then, the total supplemental premiums imposed in the second preceding year are compared to the total supplemental premiums as adjusted by the excess or shortfall rate. Finally, this difference is adjusted by the percentage by which the per capita catastrophic coverage premium liability (see section 7) for the second preceding year exceeds or is less than such liability for the fourth preceding year. The resulting amount is then used to establish the new per person monthly flat premium.

The conference agreement provides that the sum of the additional monthly premiums for catastrophic coverage and prescription drug coverage for months after 1993 cannot be less than the sum of these additional premiums for months in the preceding year. If this combined monthly premium is affected by the application of this provision, the premium increase is allocated between the catastrophic coverage premiums and the prescription drug premiums in the same proportion as if this provision had not applied.

If any flat premium increase for a month is not a multiple of 10 cents, it will be rounded to the nearest multiple of 10 cents. If so rounded, premiums will be allocated between the catastrophic coverage monthly premium and the prescription drug monthly premium on the basis of their respective amounts determined without regard to any rounding.

The conference agreement includes the Senate amendment regarding the "hold harmless" provision with a modification that the provision applies to both social security benefits and Railroad Retirement benefits and that such benefits may not decrease due to an increase in the Part B premium in any year.

(b) *Catastrophic Coverage Premium.*—(1) Premium Amount.—The conference agreement provides that the monthly catastrophic coverage premium will be as follows for months occurring in 1989 through 1993:

1989	$4.00
1990	4.90
1991	5.46
1992	6.75
1993	7.18

(2) *Indexing.*—The conference agreement provides that for months in a year after 1993, the catastrophic coverage monthly premium will be the preceding year's premium (without regard to any increase in the premium because it was less than the previous years' premium or because of any adjustment due to limits on the supplemental premium), adjusted by a percentage representing the sum of: (i) the outlay premium percentage, and (ii) the reserve account percentage.

The outlay-premium percentage is the percent by which the per capita catastrophic outlays in the second preceding year exceed (or are less than) such outlays in the third preceding year. An adjustment is provided for changes in the Consumer Price Index (CPI) as follows:

If the CPI's inflation rate increased from the third to the second preceding year, the outlay-premium percentage is adjusted by adding 50 percent of the excess (if any) of (i) the excess of the CPI inflation rate in the second over the third preceding year, over (ii) one percentage point. If the CPI inflation rate decreased from the third to the second preceding year, the outlay-premium percentage is adjusted by subtracting 50 percent of the excess (if any) of (i) the excess of the CPI inflation rate in the third over the second preceding year, over (ii) one percentage point. For this purpose, the CPI inflation rate for any year is defined as the percentage by which the CPI for May of such year exceeds such index for May of the preceding year.

The reserve account percentage for any calendar year is the percentage change in the catastrophic coverage monthly premium for the second preceding year which the Secretary determines would have increased (or decreased) the flat premiums for such year by an amount equal to 37 percent of the shortfall (or surplus) in the Medicare Catastrophic Coverage Account (the "Account") in such year. The shortfall (or surplus) in the Account for any calendar year is determined as the amount by which 20 percent of the catastrophic outlays from the Account in the second preceding year exceed (or are less than) the Account balance at the end of such year (taking into account falt and supplemental premium increases attributable to reserve percentages in prior years that have not yet been credited to the Account).

(c) *Premium for Prescription Drug Benefit.*—The conference agreement provides that the monthly prescription drug premium will be as follows for months occurring in 1991 through 1993:

1991	$1.94
1992	2.45
1993	3.02

For months in a year after 1993, the prescription drug premium will be the preceding year's premium, (without regard to any increase because the premium was less than the previous year's premium or because of any adjustment due to the limits on the supplemental premium), adjusted by a percentage determined in a manner similar to that for the monthly catastrophic coverage premium, with the following changes: (1) in determining the outlay percentage, prescription drug outlays rather than catastrophic coverage outlays are used; (2) in determining the reserve percentage, the Federal Catastrophic Drug Insurance Trust Fund balance (see section 16, below) is used rather than the Account balance; (3) the reserve percentage is 75 percent for 1994, 50 percent for 1995, and 25 percent for 1996 and 1997, instead of 20 percent; and (4) the outlay percentage is deemed to be zero for calendar years before 1998.

(d) *Premium for In-Home Care Benefit.*—The conference agreement does not include the House provision. Revenues to fund the in-home (respite care) benefit are included in the monthly and supplemental catastrophic coverage premiums.

(e) *Monthly Premiums for Residents of U.S. Commonwealths and Territories.*—The conference agreement includes the House provision, with the following amendments. For individuals who are residents of Puerto Rico or of another U.S. commonwealth or territory (including the U.S. Virgin Islands, Guam, American Samoa, or the Northern Mariana Islands), the monthly Part B premium otherwise determined would be increased by a catastrophic coverage monthly premium and a prescription drug monthly premium.

For months in 1989, the catastrophic coverage monthly premium is $1.30 for a resident of Puerto Rico and $2.10 for a resident of another U.S. commonwealth or territory. For months in 1990, the catastrophic coverage monthly premium is $3.56 for a resident of Puerto Rico and $5.78 for a resident of another U.S. commonwealth or territory.

For months in a subsequent year, the catastrophic coverage monthly premium is the resident's preceding year's premium increased by the Secretary's estimate (in September of that preceding year) of the percentage increase in the per capita catastrophic outlays from the Catastrophic Account for the year over such outlays for the preceding year.

For months in 1990, the prescription drug monthly premium is $0.14 for a resident of Puerto Rico and $0.22 for a resident of another U.S. commonwealth or territory. For months in 1991, the prescription drug monthly premium is $1,21 for a resident of Puerto Rico and $1.93 for a resident of another U.S. commonwealth or territory.

For months in a subsequent year, the prescription drug monthly premium is the resident's preceding year's premium increased by the Secretary's estimate (in September of that preceding year) of the percentage increase in the per capita prescription drug outlays from the Federal Catastrophic Drug Insurance Trust Fund for the year over such outlays for the preceding year.

The Secretary is required to report to Congress, in 1993, on the appropriateness of the level of the Part B premium increases for residents of Puerto Rico and of other U.S. commonwealths and territories.

(f) *Monthly Premiums for Individuals Enrolled Under Part B But Not Entitled to Benefits Under Part A.*—The conference agreement includes the House provision, with amendments. The agreement provides that for individuals who are entitled to Part B of Medicare but are not entitled to Part A, or would not be entitled to Part A but for payment of the Part A premiums, and who are not residents of a commonwealth or territory, the monthly Part B premiums will be determined as follows. The monthly Part B premium otherwise determined will be increased by a catastrophic coverage monthly premium and a prescription drug monthly premium.

For months in 1990, the catastrophic coverage monthly premium is $8.57, and for months in a subsequent year the premium is one-twelfth of the average actuarial expenses that the Secretary estimates (during the previous September) will be incurred for benefits and administration costs attributable to Part B for which outlays may be made from the Medicare Catastrophic Coverage Account during the year.

The prescription drug monthly premium is $0.53 for months in 1990, $4.61 for months in 1991, and for months in a subsequent year the premium is one-twelfth of the average actuarial expenses that the Secretary estimates (during the previous September) will be incurred for benefits and administration costs attributable to Part B for which outlays may be made from the Federal Catastrophic Drug Insurance Trust Fund during the year.

(g) *Transfers to Catastrophic Health Insurance Trust Fund.*—The conference agreement does not include the Senate amendment. The catastrophic coverage monthly premium is credited to the Medicare Catastrophic Coverage Account and transferred to the SMI Trust Fund.

(h) *Conforming Amendments.*—The conference agreement provides for certain conforming amendments, including (1) those to disregard the receipts and outlays attributable to changes made by this Act when determining (i) the monthly actuarial rate used to establish the Part B premium for aged and disabled beneficiaries, and (ii) the appropriate contingency margin for the Part B trust fund; (2) a provision to disregard the flat and supplemental catastrophic coverage and prescription drug premiums when computing appropriations to the Part B trust fund from the Treasury; and (3) those authorizing payments from the Federal Catastrophic Drug Insurance Trust Fund to organizations with risk-sharing contracts and establishing a method for allocating payment to such organizations from the Part A, Part B, and the Federal Catastrophic Drug Insurance Trust Funds.

Effective Date.—The conference agreement applies (except as otherwise specified in such amendments) to monthly premiums for months beginning with January 1989.

16. Establishment of Federal Catastrophic Drug Insurance Trust Fund (Section 6A of Senate Amendment)

Present law

A separate trust fund exists in the Treasury of the United States for each part of the Medicare program: the Federal Hospital Insurance Trust Fund (Part A) and the Federal Supplementary Medical Insurance Trust Fund (Part B).

The Part A trust fund includes annual deposits of the hospital insurance taxes collected from employers, employees, and the self-employed, and the monthly Part A premiums from individuals not otherwise eligible for Part A. The Part B trust fund includes deposits of the monthly Part B premiums paid by or on behalf of Part B enrollees, and contributions by the Federal Government from general revenues.

Section 1841 of the Social Security Act applies to the Federal Supplementary Medical Insurance Trust Fund as follows: Section 1841(b) creates and specifies the duties of a board of trustees for the trust fund; section 1841(c) provides for the investment of certain trust fund funds; section 1841(d) authorizes the selling of certain obligations acquired by the trust fund; section 1841(e) provides for the crediting of interest on or proceeds from the sale or redemption of any obligations held by the trust fund; section 1841(f) provides for periodic transfers to the trust fund from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Railroad Retirement Account; section 1841(g) provides for payments from the trust fund for Part B benefit payments and related administrative costs; section 1841(h) provides for payment from the trust fund for costs incurred by the Office of Personnel Management in deducting Part B premiums from Federal annuities; and section 1841(i) provides for payment from the trust fund for certain costs incurred by the Railroad Retirement Board.

House bill

No provisions.

Senate amendment

Creates on the books of the Treasury of the United States a trust fund known as the Federal Catastrophic Drug Insurance Trust Fund.

Provides that such trust fund consists of (1) any gifts and bequests made to the trust fund or to the Department of Health and Human Services for the benefit of the trust fund or any activity financed by the trust fund, and (2) the following amounts transferred to such trust fund: (a) drug benefit premiums transferred from the Part B trust fund, and (b) the drug premium rate adjustment component of the Medicare supplemental premium transferred from the general fund of the Treasury.

Provides that subsections (b) through (i) of section 1841 of the Social Security Act apply to such trust fund in the same manner as they apply to the Part B trust fund.

Requires that all Medicare payments for the home intravenous drug therapy benefit and the prescription drug benefit be made from this trust fund.

Effective date.—Applies to items and services furnished after, and premiums for months beginning after, December 31, 1987.

Conference agreement

The Conference agreement generally follows the Senate amendment. All payments for benefits and administrative costs relating to covered outpatient drugs are to be made from the CDI Trust Fund. The CDI Trust Fund has no borrowing authority.

Receipts attributable to the supplemental prescription drug premium rate are appropriated to the CDI trust fund. The Secretary of the Treasury is to transfer these appropriated amounts from the general fund to the CDI trust fund not less frequently than monthly, and at the close of the calendar year, determined on the basis of estimates; adjustments are made in subsequent transfers to take account of estimating errors. For individuals paying the maximum supplemental premium, receipts are allocated between the supplemental prescription drug and catastrophic coverage premiums pro rata on the basis of the respective premium rates.

The Secretary of HHS shall transfer premiums attributable to the prescription drug monthly premium directly to the CDI trust fund rather than through the SMI Trust Fund.

The Secretaries of HHS and Treasury jointly shall: (1) not later than July 1 of 1993 and each year thereafter, announce the preliminary monthly and supplemental prescription drug premiums for the following year; (2) not later than July 1 of 1992 and each year thereafter, publish in the Federal Register the outlays from, and the year-end balance in the CDI trust fund for the preceding year; (3) during the last 3 days of September of 1993 and each year thereafter, publish in the Federal Register the monthly prescription drug premiums for the following year; and (4) not later than October of 1993 and end each year thereafter, announce the supplemental prescription drug premium rate for the following year. The Comptroller General shall report to Congress, not later than September 1 of 1992 and each year thereafter, on the completeness and accuracy of the July 1 Federal Register publication, and after 1992, on the July 1 premium announcement.

With respect to the CDI trust fund, "outlays" and "receipts" are defined as gross outlays and receipts within the meaning of the "Monthly Treasury Statement of Receipts and Outlays of the United States Government," as published by the Treasury Department.

Effective date.—The CDI trust fund provisions are effective after December 31, 1988.

17. Establishment of Federal Catastrophic Health Insurance Trust Fund (Section 6B of Senate Amendment)

Present law

A separate trust fund exists in the Treasury of the United States for each part of the Medicare program: the Federal Hospital Insurance Trust Fund (Part A) and the Federal Supplementary Medical Insurance Trust Fund (Part B).

The Part A trust fund includes annual deposits of the hospital insurance taxes collected from employers, employees, and the self-employed, and the monthly Part A premiums from individuals not otherwise eligible for Part A. The Part B trust fund includes deposits of the monthly Part B premiums paid by or on behalf of Part B enrollees, and contributions by the Federal Government from general revenues.

Section 1841 of the Social Security Act applies to the Federal Supplementary Medical Insurance Trust Fund as follows: Section 1841(b) creates and specifies the duties of a Board of Trustees for the trust fund; section 1841(c) provides for the investment of certain trust fund funds; section 1841(d) authorizes the selling of certain obligations acquired by the trust fund; section 1841(e) provides for the crediting of interest on or proceeds from the sale or redemption of any obligations held by the trust fund; section 1841(f) provides for periodic transfers to the trust fund from the Federal Old-Age and Survivors Insurance trust fund, the Federal Disability Insurance trust fund, and the Railroad Retirement Account; section 1841(g) provides for payments from the trust fund for Part B benefit payments and related administrative costs; section 1841(h) provides for payment from the trust fund for costs incurred by the Office of Personnel Management in deducting Part B premiums from Federal annuities; and section 1841(i) provides for payment from the trust fund for certain costs incurred by the Railroad Retirement Board.

House bill

No provision.

Senate amendment

Creates the books of the Treasury of the United States as a trust fund known as the Federal Catastrophic Health Insurance Trust Fund.

Provides that such trust fund consists of (1) any gifts and bequests made to the trust fund or to the Department of Health and Human Services for the benefit of the trust fund or any activity financed by the trust fund, and (2) the following amounts transferred to such trust fund: (a) amounts from the Part B premiums attributable to the catastrophic benefit changes (excluding the drug benefit) in this bill, transferred from the Part B trust fund, and (b) the aggregate monthly supplemental premiums (excluding the drug premium rate adjustment) plus the amount the Secretary of the Treasury estimates Federal outlays are reduced under Medicaid because of the catastrophic provisions of this bill (after taking into account the provisions of section 14 of the bill related to Medicaid savings and State requirements), transferred from the general fund of the Treasury.

Provides that subsections (b) through (i) of section 1841 of the Social Security Act apply to such trust fund in the same manner as they apply to the Part B trust fund.

Requires that all Medicare payments for the catastrophic benefits in sections 2(a), 3(a), 4, and 7(b) of this bill be made from this trust fund.

Effective date.—Applies to items and services furnished after, and premiums for months beginning after, December 31, 1987.

Conference agreement

(a) *Medicare Catastrophic Coverage Account.*—The conference agreement does not include the Senate amendment. A separate Medicare Catastrophic Coverage Account (the "Account") is established on the books of the Treasury of the United States, to be maintained by the Secretary of the Treasury.

No funds are transferred into or out of the account. The principal purpose of the Account is to index the monthly and supplemental catastrophic coverage premium rates and to assure that over time revenue from these premiums are at least as large as the outlays from the Parts A and B trust funds attributable to the Medicare Catastrophic Coverage Act of 1988. (See discussion of premium indexing under section 7 above.)

Under rules prescribed by the Secretary of HHS, the Account is to be debited for catastrophic outlays. Catastrophic outlays are defined as outlays from the HI and SMI trust funds estimated to be attributable to the Catastrophic Coverage Act of 1988; HI and SMI outlays are to be separately debited from the Account. The Account is to be credited for monthly catastrophic coverage premiums received in the SMI trust fund and supplemental catastrophic coverage premiums received in the SMI trust fund and the Reserve Fund. Such credits and debits shall be made as of the last date of each month based upon receipts and outlays occurring during such month, as estimated by the Secretaries of HHS and Treasury. Interest (at the rate used for purposes of the SMI trust fund) is credited on any positive average Account balance in a calendar quarter and debited on any negative average Account balance in a calendar quarter. Thus, if the Account balance is negative, the Account is debited for principal and interest deemed to be owed to the SMI trust fund.

The Secretaries of HHS and Treasury jointly shall: (1) not later than July 1 of 1993 and each year thereafter, announce the preliminary monthly and supplemental catastrophic coverage premiums for the following year; (2) not later than July 1 of 1990 and each year thereafter, publish in the Federal Register the outlays debited from, and the year-end balance in the Account for the preceding year; (3) during the last 3 days of October of 1993 and each year thereafter, publish in the Federal Register the monthly and catastrophic coverage premiums for the following year; and (4) not later than October 1 of 1993 and each subsequent year, announce the supplemental catastrophic coverage premium rate for the following year. The Comptroller General shall report to Congress, not later than September 1 of 1990 and each year thereafter, on the completeness and accuracy of the July 1 Federal Register publication and, after 1992, and July 1 premium announcement.

Catastrophic health insurance benefits, other than prescription drug and home intravenous therapy benefits, are paid out of the existing medicare Parts A and B trust funds.

Receipts attributable to the supplemental catastrophic coverage premium rate, which are not otherwise appropriated to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund (the "Reserve Fund"), are appropriated to the SMI trust fund. The Secretary of the Treasury is to transfer these appropriated amounts from the general fund to the SMI trust fund not less frequently than monthly, and at the close of the calendar year, determined on the basis of estimates; adjustments are made in subsequent transfers to take account of estimating errors. For individuals paying the maximum supplemental premium, receipts are allocated between the supplemental prescription drug and catastrophic coverage premiums pro rata on the basis of the respective premium rates.

The Secretary of HHS shall transfer receipts from the monthly catastrophic coverage premium to the SMI trust fund in the same manner as the existing Part B monthly premium.

These supplemental and monthly catastrophic coverage premiums are intended to increase Federal government receipts by the cost of catastrophic coverage benefits (plus a contingency margin).

No additional revenues are transferred to the Part A trust fund.

Effective date.—The Account is effective after December 31, 1988.

(b) *Federal Hospital Insurance Catastrophic Coverage Reserve Fund.*—To prevent an adverse effect on the HI trust fund balance, a new trust fund, to be known as the "Federal Hospital Insurance Catastrophic Coverage Reserve Fund," (the "Reserve Fund") is established on the books of the Treasury of the United States. The Conferees anticipate that Congress may at some future time transfer funds from the Reserve Fund to the HI trust fund to bolster the solvency of the trust fund. No expenditures from the Reserve Fund are permitted.

The rules for managing the Reserve Fund generally are similar to the rules that apply to the SMI trust fund.

Beginning in 1989, supplemental catastrophic coverage premiums are appropriated to the Reserve Fund, but not exceeding the amount of outlays from the HI trust fund that are debited against the Account. The Secretary of the Treasury is to transfer these appropriated amounts from the general fund to the Reserve Fund not less frequently than monthly, and at the close of the calendar year, determined on the basis of estimates; adjustments are made in subsequent transfers to take account of estimating errors. For individuals paying the maximum supplemental premium, receipts are allocated between the supplemental prescription drug and catastrophic coverage premiums pro rata on the basis of the respective premium rates.

The Secretary shall in July 1990 transfer an amount of supplemental catastrophic coverage premiums to the Reserve Fund equal to interest deemed to accrue (at the rate used for purposes of the SMI trust fund) from the time HI outlays are debited from the Account in 1989, until the time an equal amount of supplemental catastrophic coverage premiums are transferred to the Reserve Fund.

Receipts attributable to the supplemental catastrophic coverage premium are first transferred to the Reserve Fund and then, to the extent available, transferred to the SMI trust fund, as described in section 17, above. (Such premium receipts are credited to the Account, whether transferred to the Reserve Fund or the SMI trust fund.)

With respect to the Reserve Fund, "outlays" and "receipts" are defined as gross outlays and receipts within the meaning of the "Monthly Treasury Statement of Receipts and Outlays of the United States Government," as published by the Treasury Department.

Effective date.—The Federal Health Insurance Reserve Fund provisions are effective after December 31, 1988.

18. Trustee Comments on Actuarial Soundness of Basic and Supplemental Catastrophic Benefit Premiums (Section 18 of Senate amendment)

Present law

The Social Security Act currently requires that the Trustees of the Hospital Insurance (HI) and Supplementary Medical Insurance

(SI) trust funds report to the Congress not later than April 1 of each year on the operation and status of the trust funds during the preceding fiscal year and on their expected operation and status during the current fiscal year and the next 2 fiscal years.

House bill

No provision.

Senate amendment

Amends section 1817(b) relating to the HI trust fund and 1841(b) relating to the SMI trust fund by inserting a requirement that the Trustees comment in their annual reports with respect to the extent to which the monthly catastrophic coverage premium and the supplemental premium cover the cost of the catastrophic benefits (as defined in section 1839(g)(2)(C)(i) added by this Act) and related administrative expenses payable from the trust funds.

Effective date.—Effective for trustees' annual reports beginning with those issued for fiscal year 1988.

Conference agreement

Under the Conference agreement, the Trustees annual reports on the HI and SMI trust funds are to identify those receipts and outlays in each trust fund which are deemed to be receipts and outlays in the Medicare Catastrophic Coverage Account (see section 17, above). In addition, the HI report is to include information pertaining to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund.

The trustees of the CDI trust fund and the Account are to report to the Congress, not later than April 1 of each year, on the operation and status of the CDI trust fund and Account during the preceding fiscal year and on their expected operation and status during the current fiscal year and the next two fiscal years.

Effective date.—Effective for Trustees' annual reports beginning with those issued for fiscal year 1989.

19. Treatment of Prepaid Health Plans (Section 207 of House bill; Section 10 of Senate amendment).

Present law

Section 1876 of the Social Security Act, as amended by the Tax Equity and Fiscal Responsibility Act of 1982, provides for Medicare payments to Health Maintenance Organizations (HMOs) and Competitive Medical Plans (CMPs) on either a risk or a cost contracting basis. In general, risk contracting plans are financially responsible for the cost of all benefits their enrollees would otherwise be eligible for under Medicare. Reimbursement of HMOs and CMPs is determined based on estimates of the average adjusted per capita cost (AAPCC) and the adjusted community rate (ACR).

House bill

(a) Adjustment of AAPCC's and Contracts for Risk-Based Eligible Organizations.—Requires the Secretary to: (1) take into account amendments made by this act in estimating the AAPCC under section 1876(a) for eligible organizations with risk sharing contracts under section 1876(a) for portions of contract years occurring after December 31, 1987; (2) modify such contracts, for such portions of contract years, to reflect any adjustments made to the AAPCCs (as required above); and (3) require such organizations to make appropriate adjustments (including adjustments in premiums and benefits) in terms of their agreements with Medicare beneficiaries to take into account the changes in law required by this act.

(b) Provisions Applicable to Organizations Receiving Reasonable Cost Reimbursement.—Specifies that the following new provisions of this act apply to organizations reimbursed on the basis of reasonable costs: Section 201(a)(1) relating to payment for catastrophic benefits; section 202(b)(1)(C) relating to payment for covered out-patient drugs; section 203(c)(3) relating to payment for in-home care.

Requires the Secretary to provide for an appropriate adjustment in Medicare payment amounts to cost-based HMOs for added benefits.

Requires such organizations to assure the Secretary that they will not charge individuals eligible for:

Medicare catastrophic coverage for covered services after the individual has incurred out-of-pocket expenses equal to the catastrophic limit; or

More than 20 percent of reasonable cost of covered drugs plus amounts payable due to deductibile; or

More than 20 percent of reasonable costs of respite services plus an amount payable due to the deductible.

Effective date.—Enactment.

Senate amendment

(a) Adjustment of AAPCC's and Contracts for Risk-Based Eligible Organizations.—Similar provision except requires the Secretay to: (1) modify any AAPCC under section 1876(a) for an eligible organization with a risk-sharing contract to take into account the amendments made by section 2(a) of this bill relating to benefits for hospital inpatient services, section 3(a) relating to deductibles and coinsurance for individuals under parts A and B, section 4 relating to limitations on out-of-pocket expenses, section 7(b) relating to payment for in-home care, section 7A relating to home intravenous drug therapy, and section 11 relating to prescription drugs; (2) modify each such contract for portions of contract years occurring after December 31, 1987 to reflect the modifications made (as required above); and (3) require such organizations to make appropriate adjustments in terms of its agreements with Medicare beneficiaries to take into account such amendments.

(b) Provisions Applicable to Organizations Receiving Reasonable Cost Reimbursement.—No provision. See section 4 of the Senate amendment (Item 9e) relating to limitations on cost sharing.

Effective date.—Enactment.

Conference agreement

(a) *Adjustment of AAPCCs and Contracts for Risk-Based eligible Organizations.*—The conference agreement requires the Secretary to modify contracts under sections 1833 and 1976 for portions of contract years occurring after December 31, 1988. Prepaid plans are required to adjust their benefit packages to take the new benefits into account. The AAPCC will be adjusted to take the new benefits into account under current authority. For provisions describing the treatment of copayments and deductibles when a beneficiary is enrolled in a pre-paid plan reimbursed on a risk basis, see item 9(e).

In assessing the value of benefits under prepaid plans paid on a risk basis the Secretary is required to make a separate actuarial determination for drug benefits and for all other covered benefits.

(b) *Provisions Applicable to Organizations Receiving Reasonable Cost Reimbursement.*—The conference agreement does not include the House provision. For provisions applicable to organizations reimbursed on a reasonable cost basis, see items 9(e), 10(f), and 12(c).

Effective date.—The conference agreement is effective on enactment.

20. Mailing of Notice of Medicare Benefits and Participating Physician Directories (Section 208 of the House bill; Section 9 of Senate amendment)

Present law

Under existing law, there is no requirement for an annual notice to Medicare beneficiaries about the scope of benefits available to them under the Medicare program. Information on Medicare coverage is generally available through the Social Security Administration district offices. As part of the participating physician program created by Public Law 98-369, the Deficit Reduction Act (DEFRA), HHS prepares directories of participating physicians, by area and specialty. These directories are made available in local Social Security offices, through hospitals, and through aging and consumer groups. Also, enrollees are informed by a notice in their Social Security check envelopes that they can obtain a copy free from their Medicare carrier. As of October 1, 1986, all "Explanation of Medicare Benefits" notices sent to beneficiaries on unassigned claims have to include a reminder of the paticipating physician and supplier program.

House bill

(a) Distribution of Notice of Medicare Benefits.—Amends the Medicare statute by adding new section 1804. Section 1804(a) requires the Secretary to distribute annually a notice containing: (1) a clear, simple explanation of the benefits available under Medicare and health care services for which benefits are not available under Medicare; and (2) a description of the limited benefits for long-term care services available under this title and generally available under State plans approved under Medicaid. Requires the notice to be mailed annually to individuals entitled to Medicare Part A or Part B benefits.

(b) Authorization of Funds.—Amends the Medicare statute by adding a new provision (1804(b)) which authorizes, to be appropriated in equal portions from the HI and SMI trust funds, such sums as may be required to provide for the annual publication and distribution of the notice described in (a).

(c) Distribution of Participating Physician Directories.—Amends section 1842(h)(6) of the Medicare law relating to participating physician directories to require that an area directory of participating physicians be sent to each individual enrolled under Part B and residing in that area.

(d) Timing.—Requires the Secretary to provide notice annually.

(e) Consultation Required.—No provision.

Effective date.—First applies to annual rates and directories for 1988. The annual notice would be sent by January 31, 1988, or 3 months after the date of enactment of this legislation.

Senate amendment

(a) Distribution of Notice of Medicare Benefits.—Requires the Secretary to notify each individual who is entitled to benefits under Medicare of: (1) the benefits that are available under the insurance programs established under Medicare (and the major categories of health care that are not covered under those programs); (2) the limitations on payment (including deductibles and

coinsurance amounts) that are imposed under such programs; and (3) the ways in which such limitations differ for individuals who are covered under the program established under Part B and individuals who are not covered under Part B.

(b) Authorization of Funds.—No provision.

(c) Distribution of Participating Physician Directories.—No provision.

(d) Timing.—Requires the Secretary to provide the notice described in (a) when an individual applies for benefits under Part A or enrolls under Part B, and annually thereafter.

(e) Consultation Required.—Requires the notices to be prepared in consultation with groups representing the elderly and with health insurers.

Effective date.—The requirement for notices for new beneficiaries is effective January 1, 1988. The notice to all beneficiaries applies to annual notices beginning for 1988.

Conference agreement

(a) *Distribution of Notice of Medicare Benefits.*—The conference agreement includes the House provision with modifications. The notice must include, in addition, information on Medicare's limitations on payment (including deductible and coinsurance amounts).

(b) *Authorization of Funds.*—The conference agreement does not include the House provision. General authority already exists in Section 201(g)(1)(A) of the Social Security Act to use Part A and Part B Trust Fund amounts for administrative expenses of the Medicare program.

(c) *Notice Concerning Participating Physicians.*—The conference agreement does not include the House provision requiring distribution of participating physician directories, but instead modifies current law requirements for notices to beneficiaries regarding the participation program.

The agreement revises the reminder of the participation program currently required on the explanation of medical benefit (EOMB) notices for unassigned claims. The revised reminder would include: (i) a clear statement of the extra amounts (if any) charged by the physician above the Medicare approved charge; (ii) a brief statement of the advantages of receiving services from a participating physician; and (iii) the carrier's toll-free number with an offer of assistance in obtaining names of participating physicians of appropriate specialty and an offer of a free copy of the appropriate participating physician directory.

The conferees expect that the Secretary will consult closely with groups representing beneficiaries and physicians in developing the notice to assure that it can be easily understood by the elderly and conveys an accurate understanding of program policies.

The conferees expect that the revised reminder would be printed in a prominent type face (where possible) near the beginning of the explanation of medical benefits.

The conference agreement also modifies current requirements for an annual notice to beneficiaries concerning the participating physician program. The revised notice (which would be in the form of a brochure) would be mailed to each beneficiary each year and would contain: (i) a description of the participation program; an explanation of the advantages of obtaining services from a participating physician or supplier; (ii) an explanation of the assistance offered by carriers in obtaining the names of participating physicians and suppliers; and (iii) the local carrier's toll free number for inquiries concerning the program and for requests for free copies of appropriate directories.

The conferees note that the provisions are based on options developed by the Physician Payment Review Commission in its March 1988 report to Congress and are similar to measures used by private insurers to publicize and facilitate the use of their participating physician networks.

(d) *Timing.*—The conference agreement includes the House provision regarding distribution of the annual notice required under subparagraph (a) with an amendment that such notices must also be mailed annually when an individual applies for benefits under Part A or enrolls under Part B.

(e) *Consultation Required.*—The conference agreement includes the Senate amendment.

Effective date.—The conference agreement specifies that the Secretary must first distribute the notice required under subparagraph (a) to beneficiaries not later than January 31, 1989. The revised EOMB notice applies to services furnished on or after January 1, 1989. The revised annual notice regarding the participation program would apply to annual notices beginning with 1989.

21. Benefits Counseling and Assistance for Certain Medicare and Medicaid Beneficiaries (Section 9A of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

(a) Training and Technical Assistance.—Authorizes the Secretary to enter into agreements with private or public nonprofit agencies or organizations for the purpose of training volunteers. These volunteers are to provide counseling to elderly individuals, ages 60 and above, receiving benefits under Medicare or Medicaid with respect to eligibility for such benefits and are to provide assistance in preparing documentation that may be required to receive such benefits. In addition to other specified forms of technical assistance, the Secretary may provide material to be used in making elderly persons aware of the availability of assistance under volunteer assistance programs. The Secretary may also provide technical publications and materials to be used by the volunteers.

(b) Powers of the Secretary.—Authorizes the Secretary: (1) to provide assistance to organizations which demonstrate that their volunteers are adequately trained and competent to render effective benefits counseling and assistance to the elderly; (2) to provide for and assist in the training of such volunteers; (3) to provide reimbursement to volunteers for transportation, meals, and other expenses incurred by them during training or in providing counseling and assistance, and to provide such other support as the Secretary deems appropriate; (4) to provide for the use of services, personnel and facilities of the Federal executive agencies and of State and local public agencies with their consent, with or without reimbursement; and (5) to prescribe such rules and regulations as the Secretary deems necessary.

(c) Employment of Volunteers.—Provides that service as a volunteer under this section shall not be considered Federal employment. Volunteers are not subject to provisions of law relating to Federal employment, except that the volunteers are subject to the prohibition against the unauthorized disclosure of confidential information as if they were Federal employees. Reimbursement for expenses received by the volunteers are exempt from taxation.

(d) Authorization of Appropriations.—Authorizes to be appropriated $2.5 million for fiscal years after 1987.

Effective date.—Enactment.

Conference agreement

(a) *Training and Technical Assistance.*—The conference agreement includes the Senate amendment, with an amendment requiring the Secretary to establish a 3-year demonstration project with a private or public nonprofit agency or organization for the purpose of training volunteers.

(b) *Powers of the Secretary.*—The conference agreement includes the Senate amendment, with a modification that deletes the authority of the Secretary to prescribe rules and regulations deemed necessary to carry out the provisions of this section.

(c) *Employment of Volunteers.*—The conference agreement includes the Senate amendment.

(d) *Authorization of Appropiations.*—The conference agreement includes the Senate amendment, with an amendment authorizing appropriations, in appropriate parts from the HI and the SMI trust funds for fiscal year 1989, 1990, and 1991, such sums as may be necessary to conduct the demonstration project.

Effective date.—The conference agreement is effective for calendar years 1989, 1990 and 1991.

22. Case Management Demonstration Projects (Section 16 of Senate amendment)

Present law

"Case management" is a system under which a designated person or organization has responsibility for overseeing health care services for individuals assigned to the person or organization. Where case management is used, an insurer usually will not pay (or will pay less) for those services that are provided without permission of the case manager. Under current law, there are no requirements for Medicare beneficiaries to receive case management services, and case management is not a covered service under Medicare. Utilization and quality control peer review organizations (PROs) are responsible for reviewing the necessity and quality of services for Medicare beneficiaries.

House bill

No provision.

Senate amendment

(a) Description of Projects.—Requires HHS to establish not less than six demonstration projects under which a PRO agrees to provide case management services to Medicare beneficiaries with selected catastrophic illnesses.

(b) Purpose of Projects.—Specifies that the purpose of the demonstrations is to provide the Secretary and Congress with the information necessary (1) to evaluate the appropriateness of providing case management services under Medicare for individuals with catastrophic illnesses, and (2) to determine the most effective approach to implementing a case management system under the program for such individuals.

(c) Agreement.—Requires the agreement with the PRO to specify (1) the catastrophic illnesses for which case management services will be provided, (2) the payments to be made to the PRO for carrying out the project, and (3) such other terms and condi-

tions as the Secretary and the PRO may agree to.

(d) Waivers.—Requires the Secretary to waive any provisions of Part B of title XI (relating to general provisions and Peer Review) and title XVIII of the Social Security Act (relating to Medicare) that the Secretary determines would prevent the establishment of a demonstration project under this provision.

(e) Duration.—Provides that the demonstration projects shall be conducted for a 1-year period. The Secretary may terminate the project before the end of the year if he determines that the State conducting the project is not in substantial compliance with the terms of the agreement with the PRO.

(f) Information and Reports.—(A) Requires a PRO with an agreement under section (a) to provide the Secretary with such information as the Secretary determines to be needed to evaluate the results of the project conducted by the PRO. (B) Requires the Secretary to submit an interim report based on information derived from the first 6 months of project operations, containing the findings, recommendations and conclusions of the evaluation of the project as described above.

(g) Authorization to Use Certain Funds.—Requires the Secretary to transfer from the HI and SMI trust funds amounts not to exceed $2 million to carry out the demonstration projects. Provides that amounts are to be transferred without regard to amounts appropriated in advance in appropriation acts. Requires payments from the trust funds to be made in such amounts as the Secretary determines to be fair and equitable.

Effective date.—Requires the Secretary to have the demonstrations in place 12 months after enactment. The interim reports are due 6 months from the date on which the demonstrations are initiated.

Conference agreement

(a) *Description of Projects.*—The conference agreement includes the Senate amendment, with an amendment requiring the Secretary to establish 4 demonstration projects under which an appropriate entity agrees to provide case management services to Medicare beneficiaries with selected catastrophic illnesses, particularly those with high costs of health care services. A further amendment requires that at least one of the demonstration projects be conducted by a peer review organization (PRO).

(b) *Purpose of Projects.*—The conference agreement includes the Senate amendment, with an amendment that the demonstration projects are to evaluate the appropriateness of, and determine the most effective approach of, providing case management services for Medicare beneficiaries with high costs of medical care.

(c) *Agreement.*—The conference agreement includes the Senate amendment, with an amendment that the demonstration project agreements must specify the high cost cases to which case management services will be provided.

(d) *Waivers.*—The conference agreeement includes the Senate amendment, with an amendment requiring the Secretary to waive (in addition to provisions of Part B of Title XI of the Social Security Act) any of Medicare's limitations or restrictions on benefits necessary to conduct the demonstration projects.

(e) *Duration.*—The conference agreement includes the Senate amendment, with an amendment that the data collection phase of the demonstration projects will be conducted for a 2-year period, with an additional period of time to write the report and submit it to Congress.

(f) *Information and Reports.*—The conference agreement includes the Senate amendment, with an amendment that the interim report will be based on information derived from the first year of project operations, and the final report will be based on data derived from the projects.

(g) *Authorization to Use Certain Funds.*—The conference agreement includes the Senate amendment, with an amendment requiring the Secretary to transfer, from the HI and the SMI trust funds in proportions the Secretary determines are appropriate, an amount not to exceed $2,000,000 in each of 2 years for administrative costs to carry out the demonstration projects.

Effective date.—The conference agreement requires the Secretary of HHS to establish the demonstration projects within 12 months after the date of enactment.

23. Changes in Certification of Medicare Supplemental Health Insurance Policies (Section 209 of House bill; Section 13 of Senate amendment)

Present law

(a) Establishment of New Medigap Standards.—Under section 1882 of the Social Security Act, insurers who market private insurance policies to fill the gaps in Medicare's coverage may have the policies certified as Medicare supplemental health insurance policies by the Secretary if the policies meet minimum standards. These standards were developed and approved by the National Association of Insurance Commissioners (NAIC) on June 6, 1979, and are incorporated by reference in section 1882 of the Social Security Act. Policies that are certified by the Secretary may be marketed as Medicare supplemental policies. However, if a State has adopted laws and/or regulations at least as stringent as those of the NAIC, policies regulated by the State are deemed to meet Federal requirements.

(b) Required Mailing of Notice.—Section 1882 (e) requires the Secretary to provide to individual Medicare beneficiaries information that will permit them to assess the value of the Medicare supplement policies to them and the relationship of any such policies to benefits under the Medicare program.

(c) Required Submission of Advertising.—There is currently no Federal requirement that insurance companies submit their Medigap advertisements for review to the State Commissioners of Insurance.

(d) Transition for Current Policies.—There is no present law relating to transition periods for current Medigap policies.

(e) Free Look Period.—Under the existing NAIC standards, Medigap policies are required to provide a "free look" period of 10 days for policies sold by mail, during which a policyholder may return the policy and get a full refund of any premium paid.

(f) Reporting of Information Relating to Loss Ratios.—Section 1882(b)(1) provides for loss ratio targets for Medicare supplemental policies that set a goal for the percentage of insurance premiums that must be returned to policyholders in the form of benefits. Medigap policies must be expected to pay benefits at least equal to 60 percent of the earned premiums for individual policies and 75 percent for group policies.

House Bill

(a) Establishment of New Medigap Standards.—

(1) Requires the Secretary to report to Congress not later than 150 days after the date of enactment of this act, on changes that should be made in the requirements of section 1882(c) of the Social Security Act for certification of Medicare supplemental policies to take into account the changes made by this act, and by any other pertinent acts enacted by the first session of the 100th Congress, and by any recommendations developed by the NAIC;

(2) Expresses the sense of Congress that: (A) Congress will promptly act on such recommendations and provide for appropriate changes in the requirements of 1882(c), and (B) States will be expected to adjust their laws in a timely manner to comply with changes in such requirements.

(b) Required Mailing of Notice.—Adds a new provision to section 1882 requiring that in order to meet the requirements for certification as a Medicare supplementary insurance policy, a policy offered in a State and in effect on January 1, 1988 must send a letter by January 31, 1988 to its policyholders who are entitled to Medicare, explaining: (a) the improved benefits resulting from this and other legislation enacted by the first session of the 100th Congress and (b) how these improvements affect the benefits contained in these policies and the premiums for these policies. Applies to Medicare supplemental policies as of February 1, 1988.

(c) Required Submission of Advertising.—Amends section 1882(b) to require that entities issuing Medigap policies submit their advertisements (whether through written, radio or television medium) used (or, at the option of the State, to be used) for the policy in the State, to the State Commissioner of Insurance for his or her review in accordance with State law.

(d) Transition for Current Policies.—

(1) Suspends (with the exception of Medigap policies sold in States described in (2) below) from January 1, 1988 through December 31, 1988, current Federal penalties under section 1882 for selling policies to Medicare beneficiaries which (a) were sold before the date of the enactment of this act, and (b) would not substantially duplicate health benefits to which they are otherwise entitled under Medicare but for the changes made by this act.

(2) Gives additional time to certain States (to be identified by the Secretary) in which penalties will be suspended. These are States which require legislation (other than legislation appropriating funds) in order for Medicare supplemental policies to be changed to avoid a penalty under section 1882, but the legislature of the State is not scheduled to meet in the 1988 legislative session in which such legislation may be considered. The exception in these States extends to 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, 1989, for which legislation described above may be considered.

(e) Free Look Period.—No provision.

(f) Reporting of Information Relating to Loss Ratios.—No provision.

Effective dates.—Enactment, except that (b) regarding notices to beneficiaries applies to Medicare supplemental policies as of February 1, 1988, and (c) applies to such policies with respect to advertising used on or after January 1, 1988.

Senate amendment

(a) Establishment of New Medigap Standards.—Amends section 1882 by making conforming changes and adding a new provision

relating to NAIC amendments of its model regulation of Medicare supplemental (Medigap) policies to reflect the changes in law made by this Act:

(1) Provides that if the NAIC revises the existing model standards for Medigap policies within 90 days after enactment, then those standards will apply as the standard for certification, beginning 1 year later.

(2) Specifies that if the NAIC does not amend the standards within 90 days, the Secretary is required to issue Federal model standards for Medigap policies reflecting the changes in law made by this act, within 90 days, to become effective 1 year later.

(3) Specifies that no Medigap policy may be certified by the Secretary, no certification shall remain in effect and no State regulatory program will be found in compliance with Section 1882, unless such policy meets (or such program provides for the application of standards equal to or more stringent than) the standards set forth in the amended NAIC Model Regulation or the Federal model standards (as the case may be).

(b) Required Mailing of Notice.—Amends Section 1882(e) to require the Secretary to: (a) inform Medicare beneficiaries (and, to the extent feasible, individuals about to become entitled to Medicare) about current laws that prohibit certain marketing and sales abuses and the manner in which they may report any such action or practice to an appropriate official of HHS and (b) establish a toll-free telephone number for individuals to report suspected violations of the laws relating to Medigap standards. Also requires the Secretary to provide Medicare beneficiaries with a listing of the addresses and telephone numbers of State and Federal agencies and offices where information and assistance relating to Medicare supplemental policies may be obtained.

(c) Required Submission of Advertising.—No provision.

(d) Transition for Current Policies.—No provision.

(e) Free Look Period.—Section 1882(b)(1) is amended to require a uniform 30-day free look period for all Medicare supplemental policies, without regard to the manner in which the purchase of the policy was solicited.

(f) Reporting of Information Relating to Loss Ratios.—Amends section 1882(b)(1) to provide that information with respect to the actual ratio of benefits provided to premiums collected under Medigap policies will be reported to the State on forms conforming to those developed by the NAIC for such purpose, or such ratios will be monitored under the program in an alternative manner approved by the Secretary.

Effective dates.—(a) is effective as provided in the amendment; (b) enactment; changes made by (e) and (f) are effective on the date on which the amended NAIC Model Standards (or Federal Model Standards) become effective under section 1882.

Conference agreement

(a) *Establishment of New Medigap Standards.*—The conference agreement includes the Senate amendment with amendments. The agreement provides for a procedure whereby the current National Association of Insurance Commissioner's (NAIC) model regulation would be amended or replaced as a standard for certification of Medicare Supplemental Insurance Policies. If the NAIC amends the model regulations within 90 days of enactment of this bill, in accordance with requirements in this section then the amended standards would apply as a standard for certification.

The NAIC has made available to the conferees both a model transition regulation, adopted in September 1987 in anticipation of the passage of this bill, and a draft of a new model minimum standards regulation. The conferees believe the transition regulation deals appropriately with the matter of adapting existing, certified policies to the amendments in Medicare made under this Act. The conferees also believe the draft model minimum standards regulation includes many appropriate provisions. The conferees intend and understand that the revised standards will continue to incorporate such provisions, including rules governing matters covered in the existing and draft model standards, such as minimum benefit standards, loss ratios, disclosure requirements and replacement requirements.

The conferees note that the NAIC model transition regulation contains an explicit prohibition on the inclusion of provisions in Medicare supplemental policies which duplicate the benefits covered under Medicare. The conferees believe such an explicit prohibition clarifies the meaning of the current requirements of Section 1882 that supplemental policies may not duplicate Medicare coverage. This amendment requires that the model standards include provisions otherwise necessary to reflect changes in law made by this Act. In enacting this provision, the conferees intend and understand that NAIC will include a similar provision precluding insurers from selling or maintaining Medicare supplemental policies which provide benefits covered by this Act in its final version of the model minimum standards regulation.

The conferees note in particular that Section 5B of the NAIC Transition Regulations provides for (1) a notice to the beneficiary, (2) the filing by the insurer of riders to the policy to eliminate duplication, and (3) the making of an appropriate refund or appropriate premium adjustment for duplicative coverage. The conferees intend and understand that such provisions will be included in the final model regulations. The conferees intend and understand that such appropriate refund or premium adjustments are to be made retroactive to the effective date of the new Medicare benefits enacted in this bill.

The conferees are particularly concerned about beneficiaries not paying for benefits under Medicare supplemental insurance policies that duplicate benefits covered under this Act. The conferees intend not merely to prevent such duplicative coverage from occurring, but also that beneficiaries receive appropriate premium adjustments where this has occurred.

If NAIC does not amend the regulations within 90 days, then the Secretary is directed to promulgate Federal model standards for certification of Medicare supplemental policies to reflect the changes in law made by this Act. Such Federal standards would then be the standards for certification. The conferees intend that such standards would incorporate all matters provided for in the bill and discussed above in this report with respect to the NAIC model standards.

The NAIC model standards (or the Federal model standards, as the case may be) would apply in a State effective on the earlier of (1) the date the State adopts standards equal to or more stringent than the amended NAIC standards (or the Federal standards), or (2) one year after the NAIC (or the Secretary, in the case of Federal standards) first adopts the standards.

The conference agreement also provides that the Secretary, rather than the President, will appoint the four State Commissioners or superintendents of insurance who, together with the Secretary, form the Supplemental Health Insurance Panel.

The conferees note that under this legislation, Medicare coverage of outpatient prescription drugs will begin in January 1991. The conferees do not intend for the enactment of this drug benefit to be construed as requiring current Medicare supplemental policies, which do not otherwise provide coverage for drugs to begin doing so upon enactment. Under the conference agreement, the NAIC (or the Secretary, as the case may be) will determine whether coverage of the drug deductible should be required for certification as a Medicare-certified policy.

(b) *Required Mailing of Notice.*—The conference agreement includes both the House provision and the Senate amendment, with modifications. In States which have enacted the NAIC Transition Regulations, beneficiaries will receive notices from insurers pursuant to the requirements of those regulations. In States which have enacted the final model standards, but not the transition regulations, insurers must send notices to beneficiaries in accordance with the requirements of this provision in order to remain certified. In States which have enacted neither the final model nor the transition regulations, insurers must follow the requirements described in (d) below. The House provision is modified to change each 1988 date to 1989. The Senate amendment is modified to require the Secretary (1) to inform Medicare beneficiaries of how they may report any marketing or sales abuses to HHS or to an appropriate State official, and (2) to publish the toll-free HHS telephone number for individuals to report suspected violations.

(c) *Required Submission of Advertising.*—The conference agreement includes the House provision, with a modification clarifying that the submission of advertisements to the State Commissioner of Insurance (or comparable officer identified by the Secretary) should be in accordance with review or approval as required under State law.

(d) *Transition for Current Policies.*—The conference agreement includes the House provision with amendments. The agreement does not include the provision which waives Federal penalties for knowingly selling policies with duplicative coverage. The agreement provides for the opportunity to sell or maintain certified Medicare supplemental health insurance policies during the period after enactment of the bill in those States which have not adopted standards by January 1, 1989 to reflect the changes in law made by this Act. The agreement provides that for policies sold prior to enactment (but in effect after enactment), a policy is deemed non-duplicative and may be deemed certified if the insurer selling the policy complies with the NAIC Model Transition Regulation by January 1, 1989, as discussed below. For policies sold after the date of enactment, such compliance would be required before the date of sale of the policy.

The conferees specifically intend that as a matter of Federal law, effective January 1, 1989 (for existing policies) or prior to sale (for policies later sold), Medicare supplemental insurance policies no longer include benefits that are provided for under this Act. Further, the conferees intend, that as a matter of Federal law, effective January 1, 1989, insurers whose policies would contain duplicate coverage but for such provision, notify the insured of such change in coverage, of any resulting premium refunds or

adjustments, and when such refunds or adjustments will be made. The notice shall include the matters contained in Section 5(B)(1)(a), (b), and (c) of the NAIC model transition regulations and shall be mailed on the later of January 1, 1989 or the date the policy is sold. For this purpose, the insurer would not have to comply with the requirement of Section 5(B) that the notices be in a form approved by the State Insurance Commissioner.

Further, the conferees intend that insurers are required to take all necessary steps to effectuate such refunds or premium adjustments in the most expeditious possible manners including immediately filing any appropriate riders to insurance policies. The conferees specifically intend and understand that all such appropriate refunds or premium adjustments will be made retroactive to January 1, 1989 or the date on which the policy is sold, whichever is earlier.

The conferees understand that insurers offering policies which are guaranteed renewable will conform their policies to prevent duplication of coverage in accordance with the provisions in this Act.

The conference agreement also requires the Secretary to report to Congress in March 1989 and in July 1990 on actions States have taken in adopting standards equal to or more stringent than the NAIC Model Transition Regulation or the amended NAIC model regulation (or Federal model standards).

(e) *Free Look Period.*—The conference agreement includes the Senate amendment.

(f) *Reporting of Information Relating to Loss Ratios.*—The conference agreement includes the Senate amendment.

(g) Prohibiting Misuse of Social Security or Medicare References.—The Conference agreement prohibits the use of the word "Social Security", "Social Security Account", "Social Security System", "Social Security Administration", "Medicare", "Health Care Financing Administration", or any acronym, combination, or variation of such words, and any symbols or emblems of such agencies, in a manner which a person or an organization knew or should have known would convey the false impression that any advertisement or other item is authorized by the Social Security Administration, the Health Care Financing Administration or the Department of Health and Human Services.

The conference agreement authorizes the Secretary to impose civil money penalties of not more than $5,000, or $25,000 in the case of a broadcast or telecast, for violations of this prohibition. The total amount of penalties imposed for multiple violations consisting of substantially identical communications or productions could not exceed $100,000 a year. Those who are assessed penalties would be permitted to request a hearing before an Administrative Law Judge and to appeal thereafter to the U.S. District Court of Appeals. In assessing fines and pursuing violators, the Secretary would be required to coordinate his actions with the Justice Department.

The conferees intend that, to the extent feasible, the Secretary would use informal methods to deal with potential violations prior to initiating action under this provision. Such methods might include a letter which identifies a violation or which points out that the addition of a conspicuously-placed disclaimer of affiliation with the Social Security Administration could avoid the need for action under this provision.

The conferees also intend that the authorities established by this provision should supplement, not substitute for, existing authority of the U.S. Postal Service to take action against misleading and fraudulent references to the Social Security Administration in materials which are mailed.

(h) *Civil Money Penalties for Medigap Violations.*—The conference agreement authorizes civil montary penalties, in every case where only criminal penalties currently apply, for deceptive selling practices relating to Medicare supplemental health insurance (medigap) policies. Violations would be subject to a civil monetary penalty of up to $5,000 per violation.

Effective date.—The conference agreement provides that (a) applies as provided in the section and the Secretary is required to provide for the reappointment of members of the Supplemental Health Insurance Panel by not later than 90 days after the date of enactment. The provisions of (b) requiring the Secretary to provide consumer information apply on enactment; and the provision of (b) requiring health insurers to send informational letters to their policy holders apply to Medicare supplemental policies as of January 31, 1989. (c) applies to Medicare supplemental insurance policies as of January 1, 1989, with respect to advertising used on or after such date. (d) applies as provided in the section. (e) and (f) apply on the date the amended NAIC Model Standards (or Federal model standards) become effective under Section 1882 of the Social Security Act. (g) and (h) are effective on enactment and apply only with respect to violations occurring after enactment.

24. Research on Long-Term Care Services for Medicare Beneficiaries (Section 211 of House bill; Section 15 of Senate amendment)

Present law

(a)-(b) Long-Term Care Services.—Medicare does not cover services required for individuals whose chronic conditions require long-term nursing home or home and community-based services. There is no current requirement that the Secretary provide for research relating to long-term care services nor is there any specific authorization for appropriations for such research.

(c) Institute of Medicine Study.—There is no current requirement that the IOM conduct a study on the financing of long-term care.

(d) Treasury Department Study of Tax Incentives for Long-Term Care.—There is no current requirement that the Secretary of Treasury conduct a study on the financing of long-term care. The President has asked the Department of Treasury to review tax policy as it affects the provision of catastrophic and long-term care health insurance.

House bill

(a) Health and Human Services Study.—Requires the Secretary to provide for research relating to the delivery and financing of long-term care services for Medicare beneficiaries. It shall include at least the following: (1) the financial characteristics of Medicare beneficiaries who receive or need long-term care services, including whether beneficiaries are eligible for Medicaid benefits for such services; (2) how financial and other characteristics of Medicare beneficiaries affect their utilization of institutional and noninstitutional services; (3) how relatives and Medicare beneficiaries are affected financially and in other ways because the beneficiaries require or receive long-term care services; (4) the quality of long-term care services (in community-based and custodial settings) and how the provision of such services may reduce expenditures for acute health care services; (5) the effectiveness of, and need for, State and Federal consumer protections which assure adequate access to and protect the rights of beneficiaries provided long-term care (other than in a nursing facility).

Defines long-term care services to include nursing home care, home care, community-based services, and custodial care.

(b) Authorization of Appropriations.—Authorizes to be appropriated, in equal parts from the HI and SMI trust funds, $5 million for each of fiscal years 1988, 1989, 1990, 1991, and 1992, to carry out the research described in (a).

(c) Institute of Medicine Study.—No provision.

(d) Treasury Department Study of Tax Incentives for Long-Term Care.—No provision.

Effective date.—Enactment.

Senate amendment

(a) Health and Human Services Study.—No provision.

(b) Authorization of Appropriations.—No provision.

(c) Institute of Medicine Study.—

(1) Requires the Secretary to request the National Academy of Sciences, through the Institute of Medicine (IOM), to contract for an IOM study to (a) explore options for private funding of a portion of long-term care (including methods by which changes in Federal laws, including tax laws, could facilitate such funding) and determine whether such options would be effective as compared to public financing alternatives and would be beneficial to the broad spectrum of populations (including children and adults who have attained and have not attained retirement age) requiring protection; (b) analyze the effect that provision of types of private funding of long-term care would have on public funding of such care; (c) review options for public sector coverage, both means-tested and universal, with respect to their effects on current and future Federal spending for health care; (d) review the effectiveness, quality of life provided, effect on family caregivers, and cost-implications of community-based long-term care, including types of limits necessary to assist beneficiaries and providers in preventing overutilization; (e) analyze, for each approach to provision of care, relative payments derived from users, non-utilizing elderly and employed persons (including both pre-funding and pay-as-you-go); and (f) review sources of financing and coverage of long-term care services in other developed nations and the implications of these findings on the development of similar policies in the United States.

(2) Requires the IOM study to take into account (a) the effect that impending demographic changes (near and long-term) will have on various approaches to service utilization and funding; (b) the impact of the various approaches to funding, both public and private, on access to long-term care services by individuals of all age groups (including children and adults who have attained and not attained retirement age), individuals of different socioeconomic and minority groups, and women; and (c) the effect that membership in these different groups has on the need, the ability to pay, and access to quality long-term care.

(3) Requires the Secretary to enter into appropriate arrangements with the Academy under which the Secretary will be responsible for expenses incurred for the study. Requires the Secretary to transfer

from the HI and SMI trust funds amounts necessary to fund the study.

(4) Requires IOM to submit, by October 1, 1989 to the Secretary, the Senate Finance Committee and the House Energy and Commerce and Ways and Means Committees, a report that describes the study, includes a statement of the data obtained, and specifies administrative actions and changes in law that IOM considers to be appropriate to implement the study findings.

(d) Treasury Department Study of Tax Incentives for Long-Term Care.—Requires the Secretary of Treasury to conduct a study of Federal tax policies to promote the financing of long-term care. The study shall identify alternative methods of creating tax incentives to encourage individuals to purchase insurance for long-term care. Requires the study to consider also the cost to the U.S. Treasury and the potential benefits to consumers, including whether the incentives would benefit all or most of the population requiring protection. Requires Secretary to consult with representatives of the insurance industry, providers of long-term care, and consumers. Requires the Secretary to report the results of the study and make recommendations to the Congress prior to April 1, 1988 of any changes in Federal law that the Secretary determines to be appropriate to promote financing of long-term care. Defines long-term care to include care and services provided by nursing homes, home health agencies and other mechanisms for long-term care delivery.

Effective date.—Enactment.

Conference agreement

(a) *Health and Human Services Study.*—The conference agreement includes the House provision with amendments. To the extent possible, the Secretary is to rely on research that has already been conducted or is underway by the Health Care Financing Administration or the National Center for Health Services Research and Health Care Technology (in their National Medical Expenditures Survey). The Secretary is required to submit interim reports by December 1990 and December 1992, and a final report by June 1994 to the House Committees on Energy and Commerce and Ways and Means, and the Senate Finance Committee describing the findings of the long-term care research required by this provision.

(b) *Authorization of Appropriations.*—The conference agreement includes the House provision.

(c) *Institute of Medicine Study.*—The conference agreement does not include the Senate amendment. The conferees note that the Secretary may contract with the Institute of Medicine to conduct the research required by Section 211(a) of the House provision.

(d) *Treasury Department Study of Tax Incentives for Long-Term Care.*—The conference agreement includes the Senate amendment, with an amendment that reporting date be changed to November 31, 1988.

Effective date.—The conference agreement is effective on enactment.

25. Study of Adult Day Care Services (Section 212 of House bill; Section 24 of Senate amendment)

Present law

Medicare does not provide coverage for adult day care services.

House bill

(a) Survey of Current Adult Day Care Services.—Requires the Secretary to survey adult day care services to collect information on (1) the scope of such services and the extent of their availability; (2) the characteristics of entities providing such services; (3) licensure, certification and other quality standards that are applied to those providing such services; (4) the cost and financing of such services; and (5) the characteristics of the people who use such services.

Defines adult day care services as medical or special services provided in an organized nonresidential setting to chronically impaired persons who are not inpatients in a medical institution.

(b) Report.—Requires the Secretary to report to Congress, within one year after enactment, on the information collected in the survey. Requires the report to include recommendations concerning appropriate standards for adult day care services under Medicare, including definitions of chronically dependent individuals and services in adult day care, establishing qualifications of providers of adult day care services, and establishing a reimbursement mechanism.

Effective date.—Enactment.

Senate amendment

(a) Survey of Current Adult Day Care Services.—Identical provision.

(b) Report.—Identical provision.

Effective date.—Enactment.

Conference agreement

(a) *Survey of Current Adult Day Care Services.*—Identical provision.

(b) *Report.*—Identical provision.

Effective date.—The conference agreement is effective on enactment.

26. U.S. Bipartisan Commission on Comprehensive Health Care (Sections 401–408 of House bill; Section 30 of Senate amendment)

Present law

No provision.

House bill

(a) Establishment/Duties.—Establishes a commission to be known as the U.S. Bipartisan Commission on Comprehensive Health Care. Requires that the Commission: (1) examine short-comings in the current health care delivery and financing mechanisms that limit or prevent access of all individuals to comprehensive health care; and (2) make specific recommendations to Congress on Federal programs, policies, and financing needed to assure the availability of comprehensive long-term care services for the elderly and disabled, comprehensive health care services for the elderly and disabled, and comprehensive health care services for all individuals in the United States. Requires the Commission to consider as it makes its recommendations: (1) the amount and sources (consistent with principles of social insurance) of Federal funds to finance the needed services, including reallocations of existing Federal program funds; and (2) the most efficient and effective manner of administering these programs.

Defines "comprehensive health care services" as including: (1) inpatient hospital services (including mental health services); (2) skilled nursing facility services, intermediate care facility services, home health services, and other long-term care services; (3) physician services and other outpatient health care services (including mental health services); (4) periodic general physical examinations; eye, hearing, dental, and foot examinations; and other preventive health care services; and (5) prescription drugs, eye-glasses, hearing aids, orthopedic equipment, and dentures (both complete and partial).

Defines "comprehensive long-term care services" as including custodial and noncustodial services in facilities, as well as home and community-based services.

(b) Membership.—Requires that the Commission be composed of 15 members appointed as follows: (1) the President will appoint 3 members; (2) the President Pro Tempore of the Senate will appoint, after consultation with the minority leader of the Senate, 6 Members of the Senate, of whom not more than 4 may be of the same political party; and (3) the Speaker of the House will appoint, after consultation with the minority leader of the House, 6 Members of the House, of whom not more than 4 may be of the same political party. The Commission will elect a chairman and vice chairman from among its members. Any vacancy in the membership of the Commission will be filled in the manner in which the original appointment was made and will not affect the power of the remaining members to execute the duties of the Commission.

(c) Meetings.—Specifies that the Commission will meet at the call of its chairman or a majority of its members; a quorum will consist of 8 members, except that 4 members may conduct a hearing. Members of the Commission may not receive compensation but may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) Staff.—Provides that the Commission may appoint and determine the compensation of staff, and may procure the temporary and intermittent services of consultants necessary to carry out the duties of the Commission.

(e) Powers.—Provides that the Commission may hold hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties. The provision requires, upon request of the Commission: (1) the Comptroller General to conduct studies or investigations; (2) the Director of the Congressional Budget Office to provide cost estimates; (3) the head of a Federal agency to provide technical assistance; and (4) the Administrator of General Services to provide on a reimbursable basis administrative support services, which the Commission determines to be necessary to carry out its duties. The head of any Federal agency may detail to the Commission, without reimbursement, any personnel to assist the Commission in carrying out its duties. The Commission is authorized: (1) to use the U.S. mails; (2) to secure directly from any Federal agency information that may be disclosed to enable the commission to carry out its duties; and (3) to accept, use and dispose of gifts or donations of services or property.

(f) Reports.—

(1) Requires the Commission to submit not later than 6 months after enactment a report to Congress on its findings and recommendations regarding comprehensive long-term care services for the elderly and disabled. The report is to include detailed recommendations for appropriate legislative initiatives.

(2) Requires the Commission to submit not later than 1 year after enactment a report to Congress on its findings and recommendations regarding comprehensive health care services for the elderly and disabled and for all individuals in the United States. The report is to include detailed recommendations for appropriate legislative initiatives.

(g) Termination.—Specifies that the Commission shall terminate 30 days after the

date it submits its report on comprehensive health care services.

(h) Authorization.—Authorizes $1.5 million for the Commission.

Effective date.—Enactment.

Senate amendment

(a) Establishment/Duties.—Identical provision.

(b) Membership.—Identical provision.

(c) Meetings.—Identical provision.

(d) Staff.—Identical provision.

(e) Powers.—Identical provision.

(f) Reports.—Identical provision.

(g) Termination.—Identical provision.

(h) Authorization.—Identical provision.

Effective date.—Enactment.

Conference agreement

Identical provision.

Effective date.—The conference agreement is effective on enactment.

27. Extension of Social HMO Demonstration Project (Section 210 of House bill)

Present Law

Section 2355 of DEFRA of 1984 (P.L. 99-369) required the Secretary to approve Medicare and Medicaid waivers needed to implement a demonstration project for social health maintenance organizations (SHMOS). These organizations are to provide an integrated package of health, long-term care, and social services on a prepaid capitation basis for persons who voluntarily enroll with the organization. There are currently four demonstration projects.

There is a comparable provision in section 4079 of Public Law 100-203.

House bill

Requires the Secretary to extend, without interruption, through September 30, 1992, the approval of waivers granted under Section 2355 of DEFRA of 1984 for the SHMO demonstration projects described in that provision, subject to the same terms and conditions (other than the duration of the project) established under that provision. It amends section 2355(b)(5) of DEFRA relating to Medicare's risk contract with the HMO to state that all payors will share risk for no more than 2 years, with the organization being at full risk in the 3rd year and in succeeding years. It requires the Secretary to send an interim report to Congress by December 1988 (rather than a final report, as in current law), and it requires the Secretary to submit a final report not later than March 31, 1993.

Effective date.—Enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision. A comparable provision was enacted in Section 4079 of P.L. 100-203.

28. Protection of Medicare Beneficiaries Enrolled in an Eligible Organization With a Risk-Sharing Contract Against Certain Practices (Section 10A of Senate amendment)

Present law

(a) Notice to Medicare Beneficiaries.—No provision.

(b) Civil Monetary Penalties and Intermediate Sanctions Against HMOs/CMPs.—HMOs/CMPs must provide assurances to the Secretary that they will not expel or refuse to reenroll any individual on the basis of health status or need for health services.

For each instance in which an HMO/CMP fails substantially to provide medically necessary items and services to a beneficiary, the Secretary may impose a $10,000 civil monetary penalty. No other sanctions short of contract termination are available for most other kinds of possible HMO/CMP contract or legal violations.

(Similar provision included in Omnibus Budget Reconciliation Act of 1987, except does not provide for refund to enrollee of excess charge and does not include extra $15,000 penalty for each individual not enrolled as a result of improper marketing practices.)

House bill

No provision.

Senate amendment

(a) Notice to Medicare Beneficiaries.—Requires an HMO or CMP with a Medicare risk-sharing contract to notify enrolled beneficiaries and potential enrollees that the organization may legally terminate or refuse to renew the contract, and that beneficiaries' enrollments may be terminated if this should occur. The notice would be included in any promotional materials furnished to potential enrollees and in information provided to all enrollees at the time of enrollment and annually thereafter. (Identical provision included in Omnibus Budget Reconciliation Act of 1987).

(b) Civil Monetary Penalties and Intermediate Sanctions Against HMOs/CMPs.—Increases the civil monetary penalty for failure to furnish medically necessary services to $25,000 for each failure. Provides for additional civil monetary penalties as follows:

(a) For each case in which an enrollee is charged a premium greater than permitted by law, $2,000 plus double the amount of the excess charge. The excess charge would be deducted from the penalty and returned to the enrollee.

(b) For each case in which the HMO/CMP expels or refuses to reenroll a beneficiary on the basis of health status, $15,000.

(c) For engaging in any practice which could reasonably be expected to result in denying or discouraging enrollment on the basis of health status, $100,000, plus $15,000 for each individual not enrolled as a result.

(d) For each case in which the HMO/CMP falsifies or misrepresents enrollment information furnished to the Secretary, any individual, or any other entity, or enrolls an individual without consent, or gives an individual a material inducement to enroll, $15,000. The penalty for each instance of false enrollment information furnished to the Secretary would be $100,000.

Provides that, in addition to or instead of imposing civil penalties, the Secretary may after notice to the organization suspend new enrollments or suspend payments to the HMO/CMP on behalf of new enrollees. Incorporates existing provisions on administration of civil monetary penalties.

Effective date.—(a) Applies to contracts entered into or renewed on or after the date of enactment.

(b) Becomes effective at the end of the 14 day period beginning on the date of enactment and does not apply to administrative proceedings commenced before the end of such period.

Conference agreement

The conference agreement includes the Senate amendment, with modifications. Only provisions not already enacted in the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) are included. Excess premium charges collected from enrolleees are to be refunded, and an organization may be subject to a $15,000 civil monetary penalty for each case in which it expels or refuses to reenroll a beneficiary on the basis of health status.

29. Repeal of Authority to Administer Proficiency Examinations (Section 17 of Senate amendment)

Present law

Section 1123 of the Social Security Act allows the use of a testing program to determine the proficiency of individuals who desire to become skilled medical technicians. In the conduct of such tests, no individual who otherwise meets the proficiency requirements for the health care specialty can be denied a satisfactory proficiency rating solely because of his failure to meet formal educational or professional membership requirements. Currently, persons who are judged proficient as a result of this test may avoid going through an accredited education program designed to train such personnel.

House bill

No provision.

Senate amendment

Repeals section 1123, effective October 1, 1987. Provides that the repeal would not affect the authority of the Secretary to conduct the program established under 1123 prior to October 1, 1987 or the qualification of individuals to perform their duties and responsibilities who were certified by reason of previously administered exams.

Effective date.—October 1, 1987.

Conference agreement

The conference agreement includes the Senate amendment. The conferees note that this authority had already expired on September 30, 1987.

Although the authority would have allowed the Secretary to develop proficiency examinations for a variety of health personnel, the only examinations ever administered were those for clinical laboratory personnel. The conferees have been advised that there may develop a shortage of such personnel in the future. If this occurrs, the conferees anticipate that consideration could be given to the appropriateness of authorizing a new examination for such personnel.

Effective date.—The conference agreement is effective October 1, 1987.

30. Study and Reports by the Office of Personnel Management on Offering Medicare Supplemental Plans to Federal Medicare Eligible Individuals, and Other Program Changes (Section 23 of Senate amendment)

Present law

(a) Study and Report.—Under the Federal Employees Health Benefits (FEHB) Program, Federal employees and annuitants and their dependents are offered health benefits coverage from a range of participating health benefit plans. Since the FEHB program offers no plans that only supplement Medicare's coverage, the benefits available under the plans in the FEHB program duplicate certain benefits under the Medicare program.

(b) Feasibility Study and Report.—Under Section 1882 of the Social Security Act, the Secretary is required to establish a procedure by which Medicare supplemental policies may be certified by the Secretary as meeting minimum standards and requirements if they meet or exceed certain model standards developed and adopted by the National Association of Insurance Commissioners and meet certain loss ratio requirements. If a State establishes a regulatory program that provides for the application of these same minimum standards and requirements

to Medicare supplemental policies, then such policies issued in that State are deemed to have met the requirements under the Secretary's certification program.

Section 1882 defines Medicare supplemental policies as health insurance policies or other health benefits plans offered by a private entity to individuals covered by Medicare that supplement Medicare's coverage; policies or plans of one or more employers or labor organizations are not included in this definition.

House bill

No provision.

Senate amendment

(a) Study and Report.—Requires the Director of the Office of Personnel Management (OPM), no later than April 1, 1989, to conduct a study and submit a report to the Senate Committee on Governmental Affairs and the House Committee on Post Office and Civil Service regarding changes to the Federal Employees Health Benefits Program that may be required to incorporate plans designed specifically for Medicare eligible individuals and to improve the efficiency and effectiveness of the program.

Prohibits any Medicare supplemental plan recommended by the Director of OPM from duplicating benefits for which payment is made under Medicare. However, any such recommended plan (1) must cover expenses that are not payable by Medicare because of deductible and coinsurance amounts, and (2) may offer additional reimbursement where Medicare benefits are limited by fee schedule and for benefits not covered by Medicare which may be of value to Medicare eligible individuals.

(b) Feasibility Study and Report.—Requires the Director of the Office of Personnel Management, no later than April 1, 1989, to report to the appropriate committees of Congress whether it is feasible to adopt such standards as issued by the National Association of Insurance Commissioners as required by section 1882 of the Social Security Act for Medicare supplemental policies, when providing Medicare supplemental plans as a type of health benefits plan available under the Federal Employees Health Benefits Program.

Effective date.—The reports required by (a) and (b) are due no later than April 1, 1989.

Conference agreement

(a) *Study and Report.*—The conference agreement includes the Senate amendment.

(b) *Feasibility Study and Report.*—The conference agreement includes the Senate amendment.

Effective date.—The conference agreement is effective upon enactment.

31. Rate Reduction For Medicare Eligible Federal Employees (Section 22 of Senate amendment)

Present law

Under the Federal Employees Health Benefits (FEHB) Program, Federal employees and annuitants and their dependents are offered health benefits coverage from a range of participating health benefit plans. The premiums for such coverage are shared by the Federal Government and by the enrollees. Premium payments are deposited in the Employees Health Benefits Fund, from which benefit and administrative costs are paid.

Since the FEHB Program offers no plans that only supplement Medicare's coverage, the benefits available under the plans in the FEHB Program duplicate certain benefits under the Medicare program.

House bill

No provision.

Senate amendment

Requires the Office of Personnel Management, in consultation with carriers offering health benefits plans under the Federal Employees Health Benefits Program, to reduce the rates charged to Medicare eligible individuals participating in such health plans by the amount, prorated for each covered Medicare eligible individual, of the estimated cost of medical services and supplies which would have been payable by such plans if the catastrophic coverage benefits (those in sections 2(a), 3(a), 4, and 7(b) of this bill) had not been enacted.

Defines "Medicare eligible individual" as any annuitant, survivor of an annuitant, or former spouse of an annuitant (1) who is otherwise eligible for benefits under the Federal Employees Health Benefits Program, eligible for benefits under Part A of Medicare, and covered by Part B of Medicare, and (2) for whom benefits paid under Medicare are the primary source of health care benefits.

Provides that funds in the Employees Health Benefits Fund for the Federal Employees Health Benefits Program are available without fiscal year limitation for costs incurred by the Office of Personnel Management in making such rate reductions.

Effective date.—Provides that the reduced rates apply as of the effective date of the Medicare catastrophic coverage (items and services furnished after, and premiums for months beginning after, December 31, 1987).

Conference agreement

The conference agreement includes the Senate amendment, with technical amendments to insure that all catastrophic benefits would be included in determining the rate reduction.

Effective date.—The conference agreement is for health benefit plans beginning January 1, 1989.

32. Maintenance of Effort (Section 21 of Senate amendment)

Present law

Many older, disabled and retired workers participate in employer-sponsor group health insurance plans. There are no current Federal requirements that employer-sponsored health plans provide specific benefits to plan participants. For those employer group plans who are also covered by Medicare, employer plans are generally coordinated to supplement Medicare benefits or provide benefits that Medicare does not cover.

The proposed Medicare catastrophic legislation would result in duplicative coverage for many of those individuals receiving both Medicare and employer-sponsored health benefits.

House bill

No provision.

Senate amendment

(a) In General.—Provides that for the 1-year period beginning on the date of enactment of this act, if an employer provides health benefits to an employee or retired former employee (including a Federal employee or retired Federal employee) that are duplicative of new or improved health care benefits provided under this act or the amendments made by this act, the employer shall: (1) provide additional benefits to the employee or retired former employee that are at least equal in value to the duplicative benefits; or (2) refund to the employee or retired former employee an amount equal to the actuarial present value of the duplicative benefits.

(b) Regulations.—Requires the Secretary of Labor to issue such regulations as are necessary to carry out this provision.

Effective date.—Effective (1) during the 1-year period beginning on the date of enactment of this act; or (2) in the case of an employer who is providing duplicative health care benefits to employees or retired former employees under a collective bargaining agreement that is in effect on the date of enactment, until the expiration of the agreement.

Conference agreement

(a) *In General.*—The conference agreement includes the Senate amendment with the following amendments. Employers who, on enactment, provide health care benefits to employees or retired former employees that duplicate Part A benefits or Part B benefits (excluding covered outpatient drugs) as amended by this Act must provide to the employees or retired former employees an amount of additional benefits (which could include payment of the part B premium) or refunds, or both, that total at least the actuarial value of the duplicative Part A benefits or Part B benefits (excluding covered outpatient drugs). Duplicative benefits are determined net of any premiums paid employees or retired former employees that are attributable to the duplicative benefits.

(b) *Employers Covered.*—Employers (including public employers other than the Federal government) affected by this provision include those who provide duplicative Part A benefits whose actuarial value is at least 50 percent of the actuarial value (discounted to the value as of the date of enactment) of the average Part A benefits provided under this bill.

Also, employers (including public employers other than the Federal government) affected by this provision include those who provide duplicative Part B benefits whose actuarial value is at least 50 percent of the actuarial value (discounted to the value as of the date of the enactment) of the average Part B benefits that will be provided under this bill.

The conferees intend that employers contributing to a multiemployer plan would be required to continue their contributions under their collective bargaining agreements.

Employers may elect to compute the actuarial value of duplicative Part A or Part B benefits on the basis of: (1) national average actuarial values, or (2) the actuarial value (net of employee premiums) with respect to that employer. The Secretary of Health and Human Services must calculate and publish for four years beginning with 1989 for duplicative Part A benefits, and 1990 for duplicative Part B benefits, the national average actuarial value of the duplicative benefits for 1988 and the year involved, and the employer guidelines for computing the actuarial value of duplicative benefits for such years.

(c) *Effective Period.*—The conference agreement includes the Senate amendment, with a modification that the maintenance of effort requirements with respect to duplicative Part A benefits are effective during 1989, and the maintenance of effort requirements with respect to duplicative Part B benefits are effective during 1990. However, where there is a collective bargaining agreement in effect of the date of enactment, the

maintenance of effort requirements are in effect until the later of 1989 for Part A benefits and 1990 for Part B benefits or the expiration of the agreement, determined without regard to any extensions after enactment.

(d) *Effective date.*—The conference agreement is effective on enactment.

33. Medicaid Buy-In of Premiums and Cost-Sharing for Indigent Medicare Beneficiaries (Section 301 of House bill; Sections 14 and 14B of Senate amendment)

Present law

Most States have entered into a "buy-in" agreement under which they pay the Medicare Part B premiums on behalf of their Medicaid beneficiaries who are also eligible for Medicare.

The Omnibus Budget Reconciliation Act of 1986 (OBRA 86) permits States to cover Medicare premiums, deductibles, and coinsurance for aged and disabled persons with incomes up to a State-established level, which may be up to 100 percent of the Federal poverty line. A State choosing this option is required to use the resource standards of the Supplemental Security Income (SSI) program; except that if it has a medically needy program using higher standards it may use those standards. States electing this option are required to offer Medicaid coverage "to some or all" newly pregnant women and children below the Federal poverty line.

House bill

(a) In General.—Makes mandatory the current option for States to pay Medicare premiums, deductibles and coinsurance for all elderly and disabled persons with incomes at or below 100 percent of the Federal poverty level, except that resources would be set at or below twice the SSI standard. The requirement that States cover some newly eligible pregnant women and children is retained. A State which is providing medical assistance under a section 1115(a) waiver instead of under Medicaid is required to meet the mandatory coverage requirement. The coverage requirement is optional with the commonwealths and territories, and they may use an income level below 100 percent of the Federal poverty line.

(b) Drug Provisions.—(See Item 10, "Coverage of Catastrophic Prescription Drugs Under Medicare").

(1) Requires State Medicaid programs to cover incurred drug charges below the Medicare deductible for Medicare beneficiaries with incomes below poverty. Alternatively, a State may provide the same drug coverage (up to the deductible) as is offered to categorically needy Medicaid beneficiaries in the State.

(2) No provision.

Effective date.—(a) Applies to calendar quarters beginning on or after July 1, 1988 (without regard to whether or not final regulations have been promulgated) with respect to medical assistance for monthly Medicare premiums beginning July 1, 1988, and items and services furnished on or after that date. Delay is permitted where State legislation is required.

(b) Applies for calendar quarters beginning on or after January 1, 1989 (without regard to whether or not final regulations have been promulgated) with respect to medical assistance for monthly Part B premiums beginning January 1, 1989, and covered outpatient drugs dispensed on or after that date; delay is permitted where State legislation required.

Senate amendment

(a) In General.—Requires the Secretary, before the beginning of each fiscal year, to estimate the amount that would have been expended from State funds that fiscal year for Medicaid in the absence of the catastrophic protection offered under the bill and to notify each State of the amount. Each State is required to use such estimated savings for one or more of the following:

(1) Paying for Medicare cost-sharing charges (other than those for covered outpatient drugs) for persons below the poverty line, pursuant to the provisions of OBRA 86 (except that requirements pertaining to additional coverage of pregnant women and children would not apply);

(2) Increasing the monthly maintenance needs allowance for community spouses of institutionalized individuals; or

(3) Increasing opportunities for elderly persons to participate in adult day health and other community-based services, if the State both: (A) has elected to provide coverage for Medicare cost-sharing charges for persons with incomes up to 100 percent of poverty, and (B) provides a minimum monthly income allowance for community spouses up to $500 per month.

The amounts expended by the State under this provision are in addition to any amounts that would have otherwise been expended for such purposes.

(b) Drug Provisions.—(See Item 10, "Coverage Catastrophic Drugs Under Medicare".)

(1) Similar provision.

(2) Permits States to cover Medicare prescription drug cost-sharing charges for persons whose income is between 100 and 200 percent of poverty. For persons with incomes up to 150 percent of poverty, the deductible can be up to $150 and the cost sharing amount up to 10 percent of any coinsurance amounts otherwise paid by the State. For persons with incomes above 150 percent of poverty, the deductible can be up to $300 and the coinsurance up to 15 percent.

Effective date.—(a) Applies for 12 successive calendar quarters beginning January 1, 1988, except delay is permitted where State legislation is required. In case of delay, the provision is also effective for 12 successive calendar quarters.

(b) Applies to Medicaid payments for calendar quarters beginning on or after January 1, 1990 (without regard to whether final regulations have been issued) with respect to monthly Medicare premiums and items and services furnished on and after January 1, 1990.

Conference agreement

(a) *In General.*—The conference agreement follows the House provision with modifications. Except with respect to certain "209(b)" States, the buy-in requirement would be phased in as follows: effective January 1, 1989, States would have to buy-in the elderly and disabled with incomes at or below 85 percent of the Federal poverty income guidelines ($5,770 per year in 1988 for an individual); effective January 1, 1990, at or below 90 percent; effective January 1, 1991, at or below 95 percent; and effective January 1, 1992, at or below 100 percent. With respect to those five "209(b)" States that, as of January, 1987, used more restrictive income eligibility standards with respect to the elderly than those applicable under SSI, the buy-in requirement would be phased in as follows: effective January 1, 1989, these States would be required to offer buy-in coverage to individuals with income at or below 80 percent of the Federal poverty income guidelines; effective January 1, 1990, at or below 85 percent; effective January 1, 1991, at or below 90 percent; effective January 1, 1992, at or below 95 percent; and effective January 1, 1993, at or below 100 percent. The conferees understand that five "209(b)" States qualify for this extended phase-in schedule: Hawaii, Illinois, North Carolina, Ohio, and Utah. (See CRS Report 87-986 EPW, Appendix B-2).

The conferees note that the current option to offer buy-in coverage would remain in effect during the phase-in period. Thus, States which currently offer buy-in coverage to the elderly or disabled with incomes at or below 100 percent of the Federal poverty guidelines but above the mandatory phase-in schedule (i.e., Florida, New Jersey, Rhode Island, and the District of Columbia) could continue to receive Federal matching payments for such coverage. Similarly, States that, over the next three years, wish to offer buy-in coverage to individuals with incomes above the mandatory phase-in schedule (but no higher than 100 percent of poverty) may do so.

The conference agreement clarifies the standard in the House bill that States cover "some or all" pregnant women and infants. Under the agreement, States are required, effective July 1, 1989, to extend coverage to pregnant women and infants up to age 1 with incomes at or below 75 percent of the Federal poverty income guidelines ($9,690 in 1988 for a family of 3); effective July 1, 1990, the requirement applies to all pregnant women and infants with incomes at or below 100 percent of poverty. In the case of pregnant women, coverage would be limited to pregnancy-related services; in the case of infants, coverage would extend to all Medicaid benefits offered by the State to cash assistance recipients. Those States that, as of enactment, offered coverage to pregnant women and infants with incomes at or below 100 percent of the poverty level (or some lower income threshold higher than 75 percent) would be required to continue this coverage. This maintenance of effort requirement would also apply to States that, as of enactment, had enacted authorizing or appropriations legislation to establish such coverage but had not yet actually implemented the coverage. As under current law, States that elected to offer Medicaid coverage to pregnant women and infants above the mandatory income thresholds up to 185 percent of the Federal poverty level would not be permitted to reduce their cash assistance payment levels to families with dependent children below the levels in effect as of July 1, 1987. Similarly, to assure that the resources for mandatory coverage of pregnant women and infants up to 100 percent of poverty are not diverted from the Aid to Families with Dependent Children (AFDC) program, all States are prohibited from reducing their cash assistance payment levels to families with dependent children below the levels in effect on May 1, 1988.

The conference agreement also provides that States which impose durational limits on Medicaid payments for inpatient hospital services (e.g., 12 days per year, 14 days per admission, 30 days per spell of illness, 35 days for a particular diagnosis under a prospective payment system) must establish exceptions to any such limit for medically necessary inpatient services received by an infant (up to age 1) in a hospital designated as a disproportionate share hospital under the State's Medicaid plan. Thus, so long as the infant remains Medicaid-eligible and is

receiving medically necessary inpatient services in a disproportionate share hospital, the State would be obligated to reimburse the hospital for such services without regard to any durational limit that might otherwise apply. The agreement further provides that, if a State pays for inpatient hospital services on a prospective basis (per diem, per case, or otherwise), the State must provide for an outlier adjustment for disproportionate share hospitals for medically necessary inpatient services delivered on or after July 1, 1989, involving exceptionally high cost or exceptionally long lengths of stay for infants up to age 1. States would have the discretion to define length of stay and cost outliers, and to determine the amount of adjustment to be paid for outlier cases; however, reimbursement to disproportionate share hospitals for these exceptionally high cost or exceptionally long length of stay infants would have to be reasonable and adequate. States are required to submit a plan amendment setting forth their outlier policy by April 1, 1989; the Secretary is required to review and approve or disapprove such amendment within 90 days. If the Secretary disapproves the amendment, the State is required to submit immediately a complying amendment. This requirement applies to all States, including those with "prudent buyer" contracting waivers under section 1915(b)(4) of the Social Security Act.

(b) *Drug Provisions.*—

(1) The conference agreement follows the House provision with a modification providing for a phase-in schedule corresponding to the schedule applicable to the general buy-in requirement described in (a), above. Thus, as of January 1, 1991, when the Medicare prescription drug benefit takes effect, most States will be required to buy-in the elderly and disabled with incomes at or below 95 percent of the Federal poverty level; in the five "209(b)" States for which a longer phase-in schedule is specified, the 90 percent threshold will apply. The managers note that, if the State elects the option of providing its Medicaid drug benefits in order to satisfy the Medicare prescription drug deductible, the "charges for covered outpatient drugs" are the billed charges for the drugs that Medicaid covers, even though the beneficiary has not actually incurred the charge or paid the difference between the State's payment (plus any coinsurance requirement) and the pharmacist's charge.

(2) The conference agreement does not include the Senate provision.

Effective date.—Applies to calendar quarters beginning on or after January 1, 1989 (without regard to whether or not final regulations have been promulgated) with respect to medical assistance for monthly Medicare premiums beginning on that date, and items and services furnished on or after that date. Delay is permitted where specified State legislation required. The disproportionate share hospital payment provision is effective on enactment.

34. Determination of Medicaid Drug Savings; State Plan Requirement (Section 14A of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

Requires the Secretary before the beginning of each fiscal year (or portion thereof) to estimate and determine the amount that would have been spent in each State that fiscal year under Medicaid in the absence of the new outpatient drug coverage and intravenous drug coverage provisions, and to notify the State of the amount.

Requires each State plan to use any such savings for covering Medicare drug cost sharing charges for persons below the poverty line.

Effective date.—Applies with respect to any calendar quarter beginning on or after January 1, 1990.

Conference agreement

The conference agreement does not include the Senate provision.

35. Protection of Income and Resources of Couple for Maintenance of Community Spouse (Section 302 of House bill; Section 14C of Senate amendment)

Present law

(a) In General.—Eligibility of the aged and disabled for Medicaid is linked to actual or potential receipt of cash assistance under SSI. The SSI program employs certain criteria for the treatment of income and resources which are also used in States which cover all SSI recipients. ("209(b)" States which do not cover all SSI recipients, may employ more restrictive criteria, provided they are no more restrictive than those in effect in January 1972).

An institutionalized individual with a spouse in the community is permitted to keep an amount for the maintenance needs of his spouse; however this amount is set at welfare levels. As a result of Medicaid rules, both for determining eligibility and in the treatment of income after eligibility has been established, the spouse in the community may be left with income below the poverty level; this circumstance is referred to as spousal impoverishment.

(b) Rules for Treatment of Income.—Under SSI rules, if both spouses live together, their incomes and resources are considered available to each other whether or not they actually contributed to each other. Spouses are no longer considered to be living together if one is institutionalized for longer than one month in a facility certified to receive Medicaid payments. Only the income of the institutionalized spouse is considered for purposes of determining eligibility. In most states the "name on the instrument" rule applies in attributing income; i.e., income is considered to belong to the spouse whose name is on the check or other instrument conveying the funds. (In the case of Social Security checks, the amount attributable to each spouse is the individual's share of the couple's benefit.) A Federal Appeals Court has ruled that in California and Washington, community property principles, and not the "name on the instrument" rule, apply.

(c) Rules for Treatment of Resources.—Resources must be considered mutually available for 6 months following institutionalization if both spouses are SSI eligible and for 1 month if only one spouse is SSI eligible. Countable resources above specified amounts (including a minimum of $1,900 in liquid resources for an individual and $2,850 for a couple) must be applied to the costs of care. Excluded from the calculation is the couple's home and $2,000 in equity value of household goods or personal effects. If resources are held solely by the institutionalized spouse, they are attributed to him for eligibility purposes. If they are held jointly by the institutionalized spouse and the non-institutionalized spouse, they are considered to belong entirely to the institutionalized spouse. If they are held solely by the spouse remaining in the community, none is considered available to the institutionalized spouse.

(d) Protecting Income for Community Spouse.—After an institutionalized individual has established eligibility, his income, after deduction of specified amounts known as "disregards," is applied to the cost of care. The disregards are applied to the resident's income in the following order:

(1) A monthly personal needs allowance (which must be at least $25) ($30 as of July 1, 1988);

(2) A monthly maintenance needs allowance for an individual with a spouse at home which may not exceed: (A) the SSI standard for an individual residing in his own home, (B) the highest income standard for State optional supplementary payments, or (C) the medically needy standard for one person. (A State not covering all SSI recipients cannot use a level higher than the more restrictive income standard or the medically needy standard);

(3) An additional allowance for an individual with a family at home.

(4) Amounts for medical expenses not covered by a third party, subject to reasonable limits. (The Health Care Financing Administration (HCFA) has issued a regulation that, effective April 8, 1988, makes this disregard optional with the State.

(e) Notice and Hearing.—No provision.

(f) Court Ordered Support.—In certain instances State or local courts have issued orders against institutionalized spouses requiring them to make monthly payments to the community spouse. However, notwithstanding such an order, the Health Care Financing Administration (HCFA) has determined that the income of the institutionalized spouse is available to him for purposes of determining his contribution to the cost of care.

(g) Transfer of Assets.—The fair market value of any resources (not including the individual's home) disposed of within the preceding 24 months must be taken into account in determining SSI eligibility (to which Medicaid eligibility is linked). States are permitted, but not required, to impose such a restriction for Medicaid provided it is not more restrictive than that for SSI, with one exception. In cases where the uncompensated value of disposed resources exceeds $12,000, the State may provide for a period of ineligibility exceeding 24 months, provided the period bears a reasonable relationship to the uncompensated value. States may waive the delay in Medicaid eligibility in cases of undue hardship.

States are also allowed to deny Medicaid eligibility for 24 months to institutionalized individuals who, within 24 months prior to application for Medicaid, disposed of their homes for less than fair market value even though such disposal would not make them ineligible for the SSI program. The provision does not apply if the individual intended to dispose of the home at fair market value or if title was transferred to a spouse or minor or handicapped child.

(h) Conforming Amendment.—Some States covering the aged and disabled medically needy use less restrictive income or resource methodologies than are applied under the SSI program. HCFA has interpreted current law to require that States use SSI income and resource methodologies. A moratorium on this interpretation enacted in section 2373(c) of P.L. 98-369, and clarified by section 9 of P.L. 100-93, is currently in effect.

(i) Study of Means of Recovering Costs of Nursing Facility Services From Estates of

Beneficiaries.—Under certain circumstances, States may recover amounts paid on behalf of deceased beneficiaries who were nursing home residents or who were 65 or over when Medicaid payments were made.

House bill

(a) In General.—

(1) Adds a new Section 1921 to the Social Security Act entitled "Treatment of Income and Resources For Certain Institutionalized Spouses". The provisions of this section supersede other provisions of title XIX, to the extent they are inconsistent, for purposes of determining eligibility of an institutionalized spouse. Comparable treatment is not required for other groups of eligibles.

(2) Specifies that, except as specifically provided, the section does not apply to the determination of what constitutes income or resources or the methodology and standards for determining and evaluating them.

(3) Permits an institutionalized spouse to elect to be governed instead by the rules in effect in March 1987 in his State, except that the institutionalized spouse may not opt out of the new rules regarding treatment of resources at the time of initial eligibility determination.

(4) Specifies that the new section applies to a State operating under a section 1115 waiver but not to the commonwealths and territories.

(b) Rules for Treatment of Income.—

(1) Specifies that in any month in which a spouse is institutionalized, no income of the community spouse is considered available to the institutionalized spouse.

(2) Specifies that, regardless of State laws relating to community property or division of marital property, the following income attribution rules apply for non-trust property unless otherwise specifically provided on the instrument. Income paid solely to one spouse or another is considered to belong to that respective spouse. If the income is paid in both names, half is considered available to each spouse. If the income is paid in the name of either or both spouses and another person, an equal share of the income is considered available to each individual. The same principles apply for trust property unless the trust specifically provides otherwise. For non-trust property with no instrument, half of the income is considered available to each spouse.

(3) An institutionalized spouse can rebut the non-trust property attribution rules by establishing that ownership interests are otherwise.

(4) No provision.

(c) Rules for Treatment of Resources.—

(1) Provides for the computation, as of the beginning of a continuous period of institutionalization, of the spousal share which is equal to one-half the value of all the resources held by the institutionalized spouse, the community spouse, or both. The couple's house and all household goods and personal effects are to be excluded from the calculation.

(2) Provides that the determination of countable resources is to be made regardless of State laws relating to community property or division of marital property, at the time of application for benefits. All resources held by either spouse are considered available to the institutionalized spouse except that the resources held in the name of the community spouse are not considered available unless they exceed a community spouse resource allowance (as of the application date) or if greater, the amount retained under court order.

(3) No provision.

(4) Provides that after an institutionalized spouse has established eligibility, no resources of the community spouse shall be considered available to the institutionalized spouse.

(5) Specifies that if the spousal share is less than $12,000 (indexed to the CPI beginning in 1989), the institutionalized spouse is allowed to transfer an amount sufficient to enable the community spouse to hold $12,000 in his or her own name. If the spousal share is greater than $48,000 (indexed by the CPI beginning for 1989), the amounts in excess of $48,000 would be attributed to the institutionalized spouse.

(d) Protecting Income for Community Spouse.—Specifies that the following disregards are to be applied to the institutionalized individual's income in the following order:

(1) A monthly personal needs allowance as specified under current law;

(2) A minimum monthly maintenance needs allowance for the community spouse. The allowance is the amount needed to bring the community spouse's monthly income up to a minimum level (not to exceed $1,500, indexed to the CPI beginning for 1989) which is the sum of:

(A) 150 percent of the Federal poverty guidelines for a family of two;

(B) an excess shelter allowance (the amount by which mortgage expenses or rent, plus utility costs, exceed 30 percent of Item A); and

(C) one-half of the amount by which the income of the institutionalized spouse exceeds the sum of items A and B;

(3) A family allowance for each family member (minor or dependent child, dependent parent or dependent sibling residing with the community spouse) equal to at least one-third of the amount by which 150 percent of the Federal poverty line for a family of two exceeds the family income of that family member.

(4) Amounts for incurred medical expenses not subject to payments by a legally liable third party.

(e) Notice and Hearing.—

(1) Requires States to notify the institutionalized spouse of the community spouse monthly income allowance, the family allowance, the method for computing the amount of the community spouse resource allowance, and of the spouse's right to a fair hearing with respect to the determination of the community spouse monthly income allowance.

(2) Specifies that if the institutionalized spouse establishes that the minimum monthly maintenance needs allowance is inadequate to support the community spouse without financial duress, the amount is to be increased.

(f) Court Ordered Support.—

(1) Provides that if a court has entered an order against an institutionalized spouse for monthly income support for the community spouse, the community spouse monthly maintenance needs allowance must be at least as great as the court ordered amount.

(2) Provides that if a court has entered a support order against an institutionalized spouse requiring the spouse to transfer countable resources to the community spouse, such transfer will not be considered in violation of transfer of assets prohibitions.

(3) Provides that if a court has entered an order against an institutionalized spouse requiring the spouse to transfer resources, the community spouse resource allowance is the amount transferred up to the ceiling ($48,000 in 1988, indexed to the CPI in future years).

(g) Transfer of Assets.—

(1) Requires States to determine, at the time of application, whether an institutionalized individual has disposed, within the preceding 24 months, of resources for less than fair market value. If such a transfer has occurred, a period of ineligibility is established beginning with the month in which the resources were transferred. The number of months in such period equals the total uncompensated value at the time of transfer divided by the average cost of nursing home care to a private patient in the State or community.

(2) Specifies that the transfer prohibition does not apply if:

(A) the transfer was that of the applicant's home to his or her spouse, child under 21 or blind or disabled adult child;

(B) resources were transferred to the community spouse;

(C) a satisfactory showing is made that the individual intended to dispose of resources at fair market value or for other valuable consideration; or

(D) the State determines that denial of eligibility would work an undue hardship. States can only employ transfer of resources restrictions in accordance with these provisions.

(h) Conforming Amendment.—Provides that a State's methodology for determining eligibility for the medically needy may not be more restrictive than that under the appropriate cash assistance program. The methodology is considered to be no more restrictive if, in using the methodology, additional individuals may be eligible and no otherwise eligible individuals are made ineligible.

(i) Study of Means of Recovering Costs of Nursing Facility Services From Estates of Beneficiaries.—No provision.

Effective Date.—Applies to payments made for calendar quarters beginning on or after January 1, 1988, without regard to whether final regulations have been issued. Delay is permitted where State legislation required. The conforming amendment item (h) applies to medical assistance furnished on or after October 1, 1982.

Senate amendment

(a) In General.—Identical provision, except excludes item 3.

(b) Rules for Treatment of Income.—

(1) Identical provision.

(2) Similar provision except: (A) applies only to post-eligibility treatment of income; and (B) in the case of both trust and non-trust property where the income is paid in the name of either or both spouses and another person, the income is considered available to each spouse in proportion to the spouse's interest (or if payment is made with respect to both spouses and no such interest is specified, one-half of the joint interest shall be considered available to each spouse).

(3) Identical provision.

(4) Specifies that in the case of community property States that do not provide coverage for the medically needy, the amount of income considered available to each spouse, at the time of application for benefits, is equal to half of the combined income of the institutionalized and community spouse.

(c) Rules for Treatment of Resources.—

(1) Similar provision. Also excludes resources that are necessary to produce

income that is available to the community spouse or the family allowance up to the limits established by this section (see (d) below).

Requires the State to provide an assessment and documentation of total joint resources at the request of either spouse, at the beginning of a continuous period of institutionalization. The assessment shall occur promptly on receipt of relevant documentation. A copy is to be provided to each spouse. A State may charge a reasonable fee for an assessment if it is not part of an application for Medicaid.

(2) Similar provision.

(3) Specifies that the institutionalized spouse is not considered ineligible by resources determined to be available where: (A) the institutionalized spouse has assigned to the State any rights to support from the community spouse; (B) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the State has a right to bring a support proceeding against a community spouse without such assignment; or (C) the State determines denial of eligibility could work an undue hardship.

(4) Identical provision.

(5) Similar provision, except: (A) a State, by law, practice, policy, or State plan (whether approved or not), may establish a higher amount than $12,000; and (B) specifies that a higher amount may be established by fair hearing or court order. Specifies that a transfer of resources to a community spouse must be made within 1 year after the date of the initial eligibility determination or such time as is necessary to obtain a court order (whichever is longer.)

(d) Protecting Income for Community Spouse.—Similar provision, except:

(1) The definition of personal needs allowance is tied to that specified under the bill.

(2) The minimum allowance for the community spouse may be increased by State law, policy, or State plan (whether approved or not):

(A) The minimum maintenance needs allowance is 122 percent of the poverty line.

(B) Similar provision.

(C) No provision.

(3) Similar provision, except family allowance linked to 122 percent of Federal poverty line.

(4) Similar provision.

(e) Notice and Hearing.—

(1) Similar provision, except requires specific notice to both spouses at the time of eligibility determination or to either spouse upon request. Also requires notification of the spouse's right to a fair hearing respecting ownership or availability of income or resources, and respecting the community spouse monthly income or resource allowance.

(2) Specifies that if either spouse establishes that either the minimum monthly maintenance needs allowance or the community spouse resource allowance (in the relation to the amount of income generated by such allowance) is not adequate to support the community spouse without financial duress, the amount of either allowance is to be increased.

(f) Court Ordered Support.—

(1) Similar provision.

(2) Similar provision.

(3) Similar provision, except ceiling does not apply.

(g) Transfer of Assets.—Similar provision except that the State review covers the disposal of assets within the 26 months prior to application.

(2) Similar provision, except:

(A) Specifies transfer prohibition does not apply (i) in the case of a sibling who has an equity interest in the home and was residing in the home for at least a year prior to the individual's admission to a nursing home, or (ii) in the case of a son or daughter who was residing in the home for at least two years prior to the admission and was providing care which permitted the individual to reside at home.

(B) Also permits transfer to the individual's child who is permanently or totally disabled.

(C) Also permits a showing that resources were transferred exclusively for a purpose other than to qualify for medical assistance.

(D) Identical provisions.

(h) Conforming Amendment.—Identical provision.

(i) Study of Means of Recovering Costs of Nursing Facility Services From Estates of Beneficiaries.—Requires the Secretary to study the means for recovering the amounts from the estates of deceased beneficiaries (or the estates of spouses of deceased beneficiaries) to pay for SNF or ICF services furnished them under Medicaid. The Secretary is required to report to Congress, not later than December 31, 1988, on such means, and to include appropriate recommendations for changes.

(j) Effective date.—Applies to payments made for calendar quarters beginning on or after January 1, 1988, without regard to whether final regulations have been issued. Delay is permitted where State legislation required. Provisions relating to treatment of resources, apply only to institutionalized individuals who begin continuous periods of institutionalization on or after January 1, 1988. Transfer of assets provisions, item (g) apply only to transfer of resources made on or after January 1, 1988.

Conference agreement

(a) *In General.*—The conference agreement follows the Senate amendment.

(b) *Rules for Treatment of Income.*—The conference agreement follows the Senate amendment with a modification deleting the provision relating to community property States that do not offer coverage to the medically needy (item (4) of the Senate amendment).

(c) *Rules for Treatment of Resources.*—The conference agreement follows the Senate amendment with the following modifications. If the spousal share of the couple's total resources is greater than $60,000 (indexed by CPI beginning in 1990), amounts in excess of $60,000 would be attributed to the institutionalized spouse. A level higher than $60,000 could be established by fair hearing or court order. The State, by amending its State plan, could raise the $12,000 minimum resource allowance for the community spouse to any level up to the $60,000 (subject to indexing) statutory maximum.

The agreement does not exclude from countable resources those assets necessary to produce income available to the community spouse or the family allowance. Instead, the agreement provides that either the institutionalized or the community spouse may request a fair hearing as to whether the community spouse resource allowance is adequate to generate sufficient income to raise the community spouse's income to the minimum monthly maintenance needs allowance. The State must grant such a hearing within 30 days of request. If the State, after such a hearing, determines that the community spouse resource allowance is inadequate, the State must allow the community spouse to retain an adequate amount of resources to provide the minimum monthly maintenance needs allowance (taking into account any other income attributable to the community spouse), notwithstanding the amount of the State-established resource allowance. If either spouse requests an assessment of resources at the time of institutionalization, the State must, in providing the assessment give notice to the requesting spouse of the right to a fair hearing with respect to the adequacy of the community spouse's resource allowance. The agreement also requires that nursing facilities inform newly-admitted residents of their right to request an assessment from the State agency.

The conference agreement specifies that a transfer of resources to a community spouse must be made as soon as practicable after the date of initial eligibility determination, with allowance for the time necessary to obtain a court order, where necessary. In determining what constitutes a "transfer" for this purpose, the conferees intend that State law govern. In addition, the agreement provides that the State of Missouri must not count as a resource the home (of any value) of an aged, blind, or disabled individual who applies for Medicaid on or after October 1, 1989. This requirement would apply only to the home; the State could, but would not be required to, exclude the land that appertains to the house, as would be the case under SSI.

(d) *Protecting Income for Community Spouse.*—The conference agreement follows the Senate amendment with the following modifications. As under current law, the proposal needs allowance is $30, whether the resident is eligible for Medicaid on a categorically needy, optional categorically needy, or medically needy basis. The minimum monthly maintenance needs allowance is effective September 30, 1989, set at 122 percent of the monthly Federal poverty income guidelines for a 2-person household (which is 1988 would be $786). Effective July 1, 1991, the minimum allowance would be raised to 133 percent; effective July 1, 1992, to 150 percent. This schedule of percentage would also apply to the calculation of the family allowance. The community spouse monthly maintenance needs allowance may not exceed $1,500, except where a higher level is determined to be necessary through a fair hearing or by a court order.

With respect to the deduction for incurred medical expenses, the conference agreement requires that, with respect to any Medicaid-eligible individual in an institution (regardless of whether the individual has a spouse in the community), States must take into account amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including Medicare and other health insurance premiums, deductibles, or coinsurance, and, subject to reasonable limits a State may establish, necessary medical or remedial care recognized under State law but not covered under the State's Medicaid plan. The conferees note that, until recently, HCFA regulations required that Medicaid-eligible nursing home residents be allowed to deduct uncovered medical costs from their income before contributing toward the cost of nursing home care. However, a recent HCFA regulation, 53 Fed. Reg. 3586 (Feb. 8, 1988), altered this rule to allow States to limit this deduction substantially, or to eliminate it altogether. The conference agreement is intended to reinstate the previous rule, retro-

active to the effective date of the recent change (April 8, 1988). As under the previous regulation, States will have the ability to place "reasonable limits" on a resident's expenditures for medical or remedial care. The conferees wish to emphasize that these limits must ensure that nursing home residents are able to use their own funds to purchase necessary medical or remedial care not covered by the State Medicaid program, while minimizing opportunities for providers to take financial advantage of either the program or the residents. For example, it would be reasonable for a State to provide that only uncovered services prescribed by a physician may be deducted. It would also be reasonable for States to impose specific dollar limits for specific services or items, provided that these limits reflect annual increases in the cost of medical care services and supplies. However, it would not be reasonable for States to set an overall dollar limit, such as $50 per month, for all noncovered services. Similarly, it would not be reasonable for States to impose a limit on the number of medically necessary services or items that an individual could deduct in any month. In providing these examples of "reasonable limits" for deductions of uncovered medical expenses incurred by nursing home residents, the conferees do not intend any approval of comparable limitations in the "spenddown" process for medically needy programs.

(e) *Notice and Hearing.*—The conference agreement follows the Senate amendment with the following modification. If either the community or institutionalized spouses establishes in a fair hearing that, due to exceptional circumstances resulting in significant financial duress, the community spouse needs income above the minimum monthly maintenance needs allowance, the State is required to increase the allowance to provide this amount, notwithstanding the $1500 statutory ceiling. Exceptional circumstances resulting in significant financial duress would include, but not be limited to, the financial burden of caring for a disabled child, sibling, or other immediate relative. If either spouse establishes in a fair hearing that the community spouse resource allowance (in relation to the income generated by such allowance) is inadequate to raise the income of the community spouse to the level of the minimum monthly maintenance needs allowance (taking into account any other income attributed to the community spouse), the State must provide for a resource allowance adequate in amount to generate that level of income for the community spouse.

(f) *Court-ordered Support.*—The conference agreement follows the Senate amendment.

(g) *Transfer of Assets.*—The conference agreement follows the Senate amendment, with a modification. The transfer of assets prohibitions apply only with respect to individuals institutionalized in a medical institution or nursing facility. The term "medical institution" has the same meaning as under current regulations, 42 C.F.R. section 435.1009; the term "nursing facility" includes a skilled nursing facility or intermediate care facility (other than an ICF for the mentally retarded), until October 1, 1990, when these categories will be replaced by "nursing facility." States are required to determine whether these individuals made any prohibited resource transfers within 30 months prior to application for benefits. This requirement is effective with respect to applications for Medicaid eligibility occurring on or after July 1, 1988 and applies only with respect to resources transferred on or after July 1, 1988. Thus, in those States which do not have transfer or assets prohibitions in place prior to July 1, 1988, the State can look back only to transfers occurring on or after July 1, 1988. In those States that, prior to July 1, 1988, have exercised their option to penalize transfers of assets for less than fair market value, the State may continue to apply its pre-July 1 transfer policies and penalties with respect to resources transferred prior to July 1, 1988, even in cases where application for Medicaid benefits is made after on or after that date. However, with respect to resource transfers occurring on or after July 1, 1988, the rules set forth in the conference agreement regarding computation of the period of ineligibility and exceptions to the transfer prohibition will apply in all States, including the "209(b)" States which have elected the option to use more restrictive eligibility standards with respect to their aged, blind, and disabled beneficiaries than apply under SSI.

The conference agreement also repeals the provision in present SSI law which requires that the uncompensated value of resources transferred at less than fair market value within the preceding 24 months be counted toward the SSI resource limit. However, under the conference agreement, a transfer of resources at less than fair value by an SSI applicant or recipient will be considered in determining an individual's eligibility for Medicaid if and when the individual enters a medical institution or nursing facility. Such transfers may include, for example, the SSI applicant's or recipient's home even though at the time of the transfer the home was not a countable SSI resource. Therefore, the conference agreement will require that the Secretary inform SSI applicants in writing, at the time of application, and SSI recipients, at the time of redetermination of eligibility, of the provisions of Medicaid law with respect to transfer of assets. The Secretary will be required to request from the individual information about transfers and, at the time of such request, to inform the individual that such information may be shared with the State Medicaid agency. The Secretary will also be required to make this information available to a State Medicaid agency, upon request; the State may, at its option, use this information to determine whether and to what extent there will be a period of ineligibility for Medicaid because an individual transferred resources at less than fair market value.

(h) *Conforming Amendment.*—The conference agreement follows the House bill, which applies to States which cover the medically needy, with a modification extending its application to States which offer coverage to optional categorically needy individuals and to "209(b)" States as well. Under the moratorium imposed by section 2373(c) of P.L. 98-369, as clarified by section 9 of P.L. 100-93, States have flexibility to establish income and resource methodologies under medically needy programs, optional categorically needy programs, and under the "209(b)" option that are less restrictive, i.e. more generous, than those applied in the corresponding cash assistance programs. The conference agreement codifies this flexibility, retroactive to October 1, 1982.

(i) *Study of Means of Recovering Costs of Nursing Facility Services from Estates of Beneficiaries.*—The conference agreement includes a technical amendment reflecting the Senate amendment, the text of which had been agreed to in, but was inadvertently omitted from, the Omnibus Budget Reconciliation Act of 1987, P.L. 100-203. The conference agreement includes additional OBRA '87 technical corrections and other miscellaneous provisions.

With respect to section 4112 of OBRA '87, relating to payment adjustments for disproportionate share hospitals, the conference agreement makes a number of technical corrections regarding the 3-year phase-in and other matters. It clarifies that the special rule in subsection 4112(e) applies only to New York, and adds a special rule providing that, for a 3-year period, Texas may use its own definition of disproportionate share hospital and its own payment adjustment rules so long as the aggregate amount payment adjustments to disproportionate share hospitals is not less than the amount that would be required by section 4112. During this 3-year period, in meeting the requirement that at least two obstetricians with staff privileges agree to provide obstetric services to Medicaid patients, a hospital in an urban area in Texas seeking disproportionate share status could substitute family practitioners, internists, or any other qualified physician with staff privileges.

The conference agreement clarifies that Federal Medicaid matching funds are available for the cost of health services, covered under a State's Medicaid plan, that are furnished to a handicapped child or a handicapped infant or toddler, even though such services are included in the child's individualized education program or individualized family service plan. Under the Education for All Handicapped Children Act of 1975, P.L. 94-142, children with handicaps are entitled to a free and appropriate public education in conformity with an individualized education program (IEP) which describes the educational and "related services" necessary to meet the child's unique needs. While the State education agencies are financially responsible for educational services, in the case of Medicaid-eligible handicapped child, State Medicaid agencies remain responsible for the "related services" identified in the child's IEP if they are covered under the State's Medicaid plan, such as speech pathology and audiology, psychological services, physical and occupational therapy, and medical counseling and services for diagnostic and evaluation purposes.

The conference agreement defines an institution for mental diseases (IMD) as a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases. This would clarify that Federal Medicaid matching funds would be available for services such as personal care and case management that are furnished through or by group homes or other small facilities serving the mentally ill, if those services are covered by the State under its Medicaid plan. The 16-bed limitation parallels current rules under the SSI program.

The conferees wish to clarify the requirements in sections 4201 and 4211 of P.L. 100-203 that nursing facilities with more than 120 beds must have at least one social worker (with at least a bachelor's degree in social work or similar professional qualification) employed full-time to provide or assure the provision of social services. Facilities could meet this requirement by employing either a person with a degree in social work or with similar professional

qualifications, such as a degree in a related field and previous supervised experience in meeting individual psycho-social needs. It is the intent of the conferees that the Secretary ensure that requirements regarding consultation and supervision of social work services be at least as stringent as those in effect prior to enactment of these changes.

The conferees also wish to clarify that it was the intent of sections 4201 and 4211 of P.L. 100-203 that the Secretary ensure that the requirements for dietary services be at least as stringent as those in effect prior to enactment of P.L. 100-203.

36. Technical Amendment Relating to Home and Community-Based Services (Section 19 of Senate amendment)

Present law

Comparable provision included in section 4418(a) of Public Law 100-203.

37. Technical Amendments Relating to New Jersey Respite Care Pilot Project (Section 20 of Senate amendment)

Present law

Comparable provision included in section 4418(o) of Public Law 100-203.

38. Treatment of Garden State Health Plan (Section 25 of Senate amendment)

Present law

Comparable provision included in section 4113 of Public Law 100-203.

39. Technical Amendments Relating to the Omnibus Budget Reconciliation Act of 1987

Conference agreement

PART A AND AMENDMENTS AFFECTING BOTH PARTS A AND B

The conference agreement includes a number of technical and conforming amendments to the Medicare Part A and Parts A and B provisions of OBRA-87. These include:

(1) The prohibition on the issuance by the Secretary of any regulation, instruction, or other policy which is estimated by the Secretary to result in a net reduction in expenditures of more than $50 million is extended to October 15, 1989;

(2) Clarification that the regional floor on hospital payment applies on a census region basis, not a wage area basis;

(3) Clarification that outlying counties of metropolitan areas can only be designated as urban if they meet the commuting rules and all other applicable standards for designation as part of an urban area;

(4) In the case of hospitals with more than 49 beds using swing beds, authorization is provided to continue payment for patients in the hospital receiving skilled nursing care when the hospital reaches its limit for swing bed care;

(5) Clarification that the hospital cost report is to be permanent;

(6) Revisions to the uniform hospital reporting demonstration program to (i) delete date elements on which it is not feasible to collect information at this time; (ii) allow additional time for the collection of data and the preparation of a report; and, (iii) extend the period of time during which funds may be expended for the demonstration;

(7) Amendments to conform anti-fraud and abuse provisions of OBRA '87 to existing statutory provisions;

(8) Extension of the date for submission of a report on hospital quality assurance required by OBRA '86 to January 1, 1990.

(9) Clarification that the rule regarding payment for hospital services by pre-paid plans under section 1876 applies to contracts established under pre-TEFRA demonstration authorities;

(10) Clarification that the hospital payment rule applies only in the case of a prepaid which does not have a contract with the hospital or the skilled nursing facility seeking payment for its services. Most often, the rule would apply in the case of out-of-plan services or when contract negotiations have not been successful. The hospital or the skilled nursing facility are free to establish any level or type of payment they wish through negotiations pursuant to a contract;

(11) Clarification of the application of the 50/50 rule to H.I.P./Network.

PART B AND PROS

The conference agreement includes a number of technical and conforming amendments to the Medicare Part B and PRO provisions of OBRA-87. These include:

(1) Consolidation of definitions relating to physician payment in new Section 1842(i);

(2) Amendments clarifying that there is only one prevailing charge for payment of physicians' services calculated on the basis of customary charges of participating and non-participating physicians. The differential between participating and non-participating physicians continues without change;

(3) Clarifying that reductions in payment for cataract surgery and requirements relating to the use of an assistant at-surgery for cataract surgery also apply to insertion of an interocular lens subsequent to cataract removal;

(4) Conforming amendments regarding maximum allowable actual charge limits for reductions in payment for concurrent anesthesia services;

(5) Clarifying amendment to the purchase service provision, including an amendment to allow for billing for such services on an unassigned basis;

(6) Amendments clarifying that the scholarship loan default offset provision applies to non-physician defaulters and to physician and non-physician defaulters under the Health Education Assistance Loan program and the Physician Shortage Area Scholarship program;

(7) An amendment clarifying that the 1975 prevailing charge floor continues but is phased-out as it is no longer needed;

(8) Corrections and clarifying amendments to the durable medical equipment fee schedule;

(9) Clarifying penalties for improper billing of interocular lenses included in payment to ASCs;

(10) Consolidating amendments incorporating OBRA-87 policies regarding clinical labs into the Social Security Act and clarifying amendments related to the effective date for the elimination of the 2% differential for hospital laboratories;

(11) Clarifying amendments for new Section 1846;

(12) Clarification of provisions relating to payment of hospital outpatient departments for radiology services;

(13) Clarifying amendments that the standard coinsurance applies to services of nurse midwives and clinical psychologists and conforming amendments applying the same penalties for improper unassigned billings to these services as apply to the services of certified registered nurse anesthetists and physician assistants;

(14) Clarifying amendments to the provision requiring coordination of claims with Medigap insurers and an amendment delaying the effectiveness of this provision for Medigap policies sold in states which did not enact necessary changes prior to July 1, 1988.

NURSING HOME REFORM

The conference agreement includes a number of technical and correcting amendments to the Medicare and Medicaid Nursing Home Reform provisions of OBRA 87. These include amendments revising effective date and other requirements. The effective dates for certain Medicare requirements are changed from the first date noted to the second date noted as follows:

(1) requirement that skilled nursing facilities conduct resident assessments: from October 1, 1990 to January 1, 1991;

(2) required training of nurse aides used by facilities: from October 1, 1989 (or January 1, 1990, in the case of an individual used as a nurse aid before July 1, 1989) to January 1, 1990;

(3) requirement for States to specify approved nurse aide training and competency evaluation programs: from March 1, 1989 to January 1, 1989;

(4) requirement for States to review and reapprove nurse aide training and competency evaluation: from March 1, 1990 to January 1, 1990;

(5) requirement for States to establish nurse aide registries: from March 1, 1989 to January 1, 1989;

(6) requirement for States to provide for an appeals process for transfers: from October 1, 1990 to October 1, 1989;

(7) requirement for States to specify the resident assessment instrument: from July 1, 1989 to July 1, 1990;

(8) requirement for the Secretary to establish guidelines for States appeals process for transfers: from October 1, 1989 to October 1, 1988;

(9) requirement for the Secretary to specify a minimum data set of core elements and common definitions for resident assessments: from July 1, 1989 to January 1, 1989;

(10) requirement for the Secretary to designate one or more resident assessment instruments: from October 1, 1990 to April 1, 1990;

(11) requirement that a facility permit immediate access to any resident by any representative of the Secretary or State, by an ombudsman, or by the resident's individual physician: effective on the date of enactment;

(12) requirement for the Secretary to develop, test, and validate standard and extended survey protocols: from October 1, 1990 to January 1, 1990.

Certain Medicaid effective dates have also been revised:

(1) requirement for States to specify approved nurse aide training and competency evaluation programs: from September 1, 1988 to January 1, 1989;

(2) requirement for States to review and reapprove nurse aide training programs: from September 1, 1990 to January 1, 1990;

(3) agreement between State and Secretary for disposition of residents who require active treatment: from October 1, 1988 to April 1, 1989;

(4) requirement for the Secretary to establish requirements for the approval of nurse aide training and competency evaluation programs: from July 1, 1988 to September 1, 1988;

(5) requirement that a facility permit immediate access to any resident by any representative of the Secretary or State, by an ombudsman, or by the resident's individual physician: effective on the date of enactment.

These amendments also clarify that nursing facilities are required to manage the personal funds of residents if requested to do so by the resident. The amendments also require States to make available to the public information in nurse aide registries.

With regard to requirements for social workers included in the OBRA 87 amendments, the conferees intend that the Secretary ensure that requirements regarding consultation and supervision of social work services be at least as stringent as those in effect prior to enactment of the OBRA changes.

RURAL HEALTH

Clarifies that the set aside for demonstrations applies to both research and demonstrations but only to funds appropriated to and expended by the Health Care Financing Administration. Conforms statutory language to intent of conferees that there be equal ten percent set-asides for rural and for inner city research and demonstrations.

From the Committee on Ways and Means, for consideration of titles I, II, and IV of the House bill, and the entire Senate amendment (except for secs. 14, 14A, 14B, 14C, 19, 20, and 25), and modifications committed to conference:

DAN ROSTENKOWSKI,
PETE STARK,
BRIAN J. DONNELLY,
WILLIS D. GRADISON, Jr.,

From the Committee on Energy and Commerce, for consideration of titles II, III, and IV of the House bill, and the Senate amendment (except for secs. 2, 3, 12, and 18(a)) and for sec. 6 of the Senate amendment insofar as consideration of such section entails changes in eligibility requirements to participate in part B of the Medicare program, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
RON WYDEN,
EDWARD R. MADIGAN
(except for sec. 204 of the House bill and sec. 7 of the Senate amendment),

For consideration of sec. 204 of the House bill and sec. 7 of the Senate amendment:

MICHAEL BILIRAKIS,

From the Committee on Education and Labor, for consideration of sec. 21 of the Senate amendment, and modifications committed to conference:

GUS HAWKINS,
WILLIAM CLAY,
JAMES JEFFORDS,
Managers on the part of the House.

LLOYD BENTSEN,
MAX BAUCUS,
BILL BRADLEY,
GEORGE MITCHELL,
DAVID PRYOR,
JOHN H. CHAFEE,
JOHN HEINZ,
DAVID DURENBERGER,
Managers on the part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCGRATH (at the request of Mr. MICHEL), for today and the balance of the week, on account of illness.

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 Mr. COMBEST) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 60 minutes, today, June 2, 8, and 9.

(The following Members (at the request of Mr. HARRIS) to revise and extend their remarks and include extraneous materials:)

Mr. STRATTON, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. BROOKS, for 5 minutes, today.
Mr. OWENS of New York, for 5 minutes, today, June 2 and 3.
Mr. MACKAY, for 60 minutes, today.
Mr. FRANK, for 60 minutes, on June 9.
Mr. HOYER, for 60 minutes, on June 9.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. COMBEST) and to include extraneous matter:)

Mr. DAVIS of Illinois.
Mr. DICKINSON.
Mr. LENT.
Mr. BROOMFIELD in four instances.
Mr. BUECHNER.
Mr. GILMAN.
Mr. BEREUTER.
Mr. HERGER.
Mr. CONTE in three instances.
Mr. RIDGE.
Mrs. ROUKEMA.
Mr. GALLO.
Mr. HENRY.
Mr. GEKAS.
Mr. DORNAN of California.
Mrs. MORELLA.
Mr. SOLOMON in two instances.
Mr. PORTER.
Mrs. BENTLEY in two instances.
Mr. HORTON.

The following Members (at the request of Mr. HARRIS) and to include extraneous matter:

Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mrs. LLOYD in five instances.
Mr. HAMILTON in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. DE LA GARZA in 10 instances.
Mr. TORRICELLI in three instances.
Mr. LIPINSKI.
Mr. KANJORSKI.
Mr. SKELTON in two instances.
Mr. STOKES in three instances.
Mr. HALL of Ohio in two instances.
Mr. ACKERMAN.
Mr. COELHO.
Mr. MILLER of California in two instances.
Mr. DELLUMS in two instances.
Mr. SOLARZ.
Mr. MCHUGH.
Mr. SMITH of Florida.
Mr. BEILENSON.
Mr. ROE.
Mr. LEVINE of California.
Mr. GEPHARDT.
Mr. FLORIO.
Mr. DIXON.
Mr. WAXMAN.
Mr. MAZZOLI.
Mr. LEHMAN of Florida.
Mr. YATRON.
Mr. DYMALLY.
Mr. NICHOLS.
Mr. GUARINI.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2210. An act to prohibit the use of certain antifouling paints containing organotin and the use of organotin compounds, purchased at retail, used to make such paints, and

H.R. 4556. An act to amend the provisions of the Agricultural Act of 1949 relating to certain cross compliance requirements under the extra long staple cotton program.

ADJOURNMENT

Mrs. BENTLEY. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 22 minutes p.m.) the House adjourned until tomorrow, Thursday, June 2, 1988, at 10 a.m.

EXECUTIVE COMMUNICATIONS ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3707. A letter from the Secretary of Agriculture, transmitting the Office of the Inspector General's semiannual report covering the 6-month period ending March 31, 1988, pursuant to 22 U.S.C. 3929(d) (2) and (3); to the Committee on Government Operations.

3708. A letter from the Secretary of Agriculture, transmitting the Department's report on the activities of the Youth Conservation Corps program for 1987, pursuant to 16 U.S.C. 1705; to the Committee on Education and Labor.

3709. A letter from the Secretary of Education, transmitting a draft of proposed legislation to improve the operation of programs under the Carl D. Perkins Vocational Education Act by promoting accountability and reducing administrative burden, and for other purposes; to the Committee on Education and Labor.

3710. A letter from the Secretary of Education, transmitting a draft of proposed legislation to revise and extend the authority to award endowment grants to Howard University, and for other purposes; to the Committee on Education and Labor.

3711. A letter from the Secretary of Energy, transmitting the quarterly report on the activities of the strategic petroleum reserve during the period January 1, 1988 through March 31, 1988, pursuant to 42 U.S.C. 6245(b); to the Committee on Energy and Commerce.

3712. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed manufacturing license agreement with Japan (Transmittal No. MC-36-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

3713. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed manufacturing license agreement with Japan (Transmittal No. MC-35-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

3714. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting the eleventh 90-day report on the Camarena investigation, the investigations of the disappearance of United States citizens in the State of Jalisco, Mexico, and the general safety of United States tourists in Mexico, pursuant to Public Law 99-93, section 134(c) (99 Stat. 421); to the Committee on Foreign Affairs.

3715. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3716. A letter from the Secretary of State, transmitting notification that the President, pursuant to section 652 and 552(c) of the Foreign Assistance Act of 1961, as amended, intends to exercise his authority to direct the Defense Department to provide services to the United Nations Good Offices Mission in Afghanistan and Pakistan [UNGOMAP]; to the Committee on Foreign Affairs.

3717. A letter from the Inspector General, Department of Health and Human Services, transmitting a copy of the Office of Inspector General's semiannual report for the period October 1, 1987 through March 31, 1988, pursuant to 22 U.S.C. 3929(d) (2) and (3); to the Committee on Government Operations.

3718. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a copy of the Inspector General's semiannual report for the period ending March 31, 1988, pursuant to 22 U.S.C. 3929(d) (2) and (3); to the Committee on Government Operations.

3719. A letter from the Secretary of the Interior, transmitting the semiannual report on operations of the Office of Inspector General for the 6-month period October 1, 1987, through March 31, 1988, pursuant to 22 U.S.C. 3929(d) (2) and (3); to the Committee on Government Operations.

3720. A letter from the Comptroller General, General Accounting Office, transmitting a list of reports issued or released in April 1988 by GAO, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

3721. A letter from the Administrator of the Veterans Administration, transmitting notice of a proposed computer matching program to be conducted by the Department of Medicine and Surgery, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3722. A letter from the Chairman, Federal Election Commission, transmitting the annual report on the Commission's activities for 1987, pursuant to 2 U.S.C. 438(a)(9); to the Committee on House Administration.

3723. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3724. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3725. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3726. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3727. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3728. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3729. A letter from the Executive Secretary, Department of Defense, transmitting a report on Department of Defense procurement from small and other business firms for October 1987 through March 1988, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

3730. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to provide authority for payment of interest on insurance settlements, and to permit increased discount rates for insurance premiums paid in advance; to the Committee on Veterans' Affairs.

3731. A letter from the Assistant U.S. Trade Representative for Congressional Affairs, transmitting the reports of each of the private sector advisory committees on the United States-Canada Free Trade Agreement, except for the report of the President's Advisory Committee for Trade Negotiations, pursuant to 19 U.S.C. 2155(e)(1); to the Committee on Ways and Means.

3732. A letter from the Chief of Forest Service, Department of Agriculture, transmitting a report on the major Forest Service annual accomplishments for fiscal year 1987, pursuant to 16 U.S.C. 1674(c); jointly, to the Committees on Agriculture and Interior and Insular Affairs.

3733. A letter form the Federal Inspector, Alaska Natural Gas Transportation System, transmitting a report on the status of the Alaska Natural Gas Transportation System for the period June through December 1987, pursuant to 15 U.S.C. 719e(a)(E); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

3734. A letter from the Secretary of Health and Human Services, transmitting the administration's views on H.R. 3436, the "Medicare Long-Term Home Care Catastrophic Protection Act of 1987"; jointly, to the Committees on Ways and Means, Energy and Commerce, and Education and Labor.

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:

[Pursuant to the order of the House May 26, 1988 the following report was filed on May 31, 1988]

Mr. Rostenkowski: Committee of conference. Conference report on H.R. 2470 (Rept. 100-661). Ordered to be printed.

[Submitted June 1, 1988]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3617. A bill for the relief of the Coushatta Tribe of Louisiana, with amendments (Rept. 100-565, Pt. 2). Referred to the Committee of the Whole House of the State of the Union.

Mr. GRAY of Pennsylvania: Committee on the Budget. Report on 302(a) allocations pursuant to section 2 of House Resolution 461 (Rept. 100-662). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. House Resolution 463. A resolution waiving certain points of order against the conference report on H.R. 2470, and against the consideration of such conference report (Rept. 100-663). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

H.R. 4340. Referred to the Committee on Appropriations for a period not to exceed 15 legislative days, with instructions to report back to the House as provided in section 401(b) of Public Law 93-344.

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. DREIER of California:

H.R. 4717. A bill to require the Secretary of Defense to complete cost comparisons within 2 years under OMB Circular A-76 for all automated data processing and data entry functions in the Department of Defense and to require contracting out of such functions in cases in which cost savings will result; to the Committee on Armed Services.

By Mrs. BENTLEY:

H.R. 4718. A bill to require the Secretary of the Treasury to coin and sell a national medal in honor of the members and former members of the Armed Forces of the United States who served in the Korean conflict; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BROOKS:

H.R. 4719. A bill to require the recipients of Federal grants and contracts to maintain drug-free workplaces, and for other purposes; to the Committee on Government Operations.

By Mr. DYMALLY (for himself and Mrs. MORELLA):

H.R. 4720. A bill to amend title 13, United States Code, to provide for the inclusion of members of the uniformed services and civilian employees of the Government assigned to posts of duty outside the United States, and their dependents, in censuses of population for purposes of the apportionment of Representatives in Congress; to the Committee on Post Office and Civil Service.

By Mr. HALL of Ohio:

H.R. 4721. A bill to establish a National Gleaning Clearinghouse to promote the collection and distribution of gleaned food to individuals in need, and for other purposes; to the Committee on Agriculture.

By Mr. HAYES of Illinois (for himself and Mr. GONZALEZ):

H.R. 4722. A bill to prohibit the displacement of the residents of the lakefront properties in Chicago, IL; to the Committee on Banking, Finance and Urban Affairs.

By Mr. JOHNSON of South Dakota:

H.R. 4723. A bill to promote highway traffic safety by encouraging the States to establish measures for more effective enforcement of laws to prevent drunk driving, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MONTGOMERY:

H.R. 4724. A bill to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Oktibbeha County, MS; to the Committee on Agriculture.

By Mr. RIDGE (for himself and Mrs. ROUKEMA):

H.R. 4725. A bill to provide funding to States, and larger metropolitan cities and urban counties, on a formula grant basis for housing and related activities for the homeless, in order to give grantees maximum flexibility to meet the needs of the homeless and to improve the efficiency and effectiveness of the homeless housing assistance programs under the Stewart B. McKinney Homeless Assistance Act, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SISISKY (for himself, Mr. BATEMAN, Mr. PICKETT, Mr. BLILEY, Mr. OLIN, Mr. SLAUGHTER of Virginia, Mr. PARRIS, Mr. BOUCHER, and Mr. WOLF):

H.R. 4726. A bill to designate the U.S. Post Office Building located at 700 Main Street in Danville, VA, as the "Dan Daniel Post Office Building"; to the Committee on Post Office and Civil Service.

By Mr. DELLUMS:

H.R. 4727. A bill to provide an affordable, secure and decent home and suitable living environment for every American family, and for other purposes; to the Committee on Banking, Financing and Urban Affairs.

By Mr. AUCOIN (for himself, Mr. LOWRY of Washington, Mr. HAYES of Illinois, Mr. DELLUMS, Mrs. BOXER, Ms. PELOSI, Mr. DEFAZIO, Mr. RUSSO, Mr. BONKER, and Mr. WYDEN):

H. Con. Res. 308. Concurrent resolution to express the sense of the Congress that spending priorities in the budget of the U.S. Government should be changed to reflect the principles upon which the United States was founded; to the Committee on Government Operations.

By Mr. GILMAN (for himself, Mr. FASCELL, Mr. BROOMFIELD, Mr. HAMILTON, Mr. YATRON, Mr. SOLOMON, Mr. MILLER of Washington, Mr. SOLARZ, Ms. SNOWE, Mr. WOLPE, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, Mr. LAGOMARSINO, Mr. TORRICELLI, Mr. SMITH of Florida, Mr. LEVINE of California, Mr. DYMALLY, and Mrs. MEYERS of Kansas):

H. Res. 464. Resolution commending the President of the United States for his efforts on behalf of human rights while at the Moscow summit; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

397. By the SPEAKER: a Memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to Pennsylvania Garden Week; to the Committee on Post Office and Civil Service.

398. Also, memorial of the Legislature of the State of Florida, relative to Buy American Week; to the Committee on Post Office and Civil Service.

399. Also, memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to tax-exempt securities; to the Committee on Ways and Means.

400. Also, memorial of the Legislature of the State of California, relative to the United States-Canada Free Trade Agreement; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 186: Mr. BAKER.

H.R. 303: Mr. TAUZIN, Mr. BUNNING, Mr. BONKER, Mr. MILLER of Ohio, and Mr. ROBERT F. SMITH.

H.R. 592: Mr. CRANE, Mr. BRYANT, Mr. MCCLOSKEY, Mrs. LLOYD, and Mr. EVANS.

H.R. 759: Mr. SKEEN, Mr. ECKART, Mr. NELSON of Florida, Mr. OLIN, Mr. FRENZEL, and Mr. DAVIS of Illinois.

H.R. 779: Mr. SHAYS.

H.R. 1198: Mr. EVANS.

H.R. 1270: Mr. BERMAN, Mr. BLAZ, Mr. BLILEY, Mr. DOWDY of Mississippi, Mr. DURBIN, Mr. BILIRAKIS, Mr. PORTER, Mr. DAUB, Mr. SKAGGS, Mr. PURSELL, Mr. DONNELLY, Mr. BATEMAN, Mr. RUSSO, Mr. SCHULZE, Mr. SKEEN, Mr. COOPER, Mr. WAXMAN, Mr. SHUSTER, and Mr. OBEY.

H.R. 1352: Ms. SLAUGHTER of New York.

H.R. 1966: Ms. SLAUGHTER of New York.

H.R. 1990: Mr. GREGG.

H.R. 2168: Mr. HAMMERSCHMIDT, Mr. GALLO, and Mr. LOWRY of Washington.

H.R. 2260: Ms. PELOSI.

H.R. 2734: Mr. SCHAEFER.

H.R. 2793: Mr. RHODES, Mr. DENNY SMITH, and Mr. BUNNING.

H.R. 2999: Mr. CLARKE, Mr. LEVINE of California, Mr. BEREUTER, Mr. FISH, Mr. LEHMAN of Florida, Mrs. MORELLA, and Mr. PEPPER.

H.R. 3070: Mr. BEREUTER.

H.R. 3133: Mr. KOLTER, and Mr. DEFAZIO.

H.R. 3250: Mr. WYLIE.

H.R. 3312: Mr. RODINO, Mr. GALLEGLY and Mr. GALLO.

H.R. 3454: Mr. PEASE.

H.R. 3481: Mr. ROE.

H.R. 3501: Mr. SCHUETTE.

H.R. 3622: Mr. TOWNS, Mr. LELAND Mr. FRANK, Mr. ESPY, Mr. Akaka, and Mr. BARTLETT.

H.R. 3781: Mr. FOGLIETTA, and Mr. BUSTAMANTE.

H.R. 3791: Mr. YATES, Mr. FLIPPO, and Mr. FISH.

H.R. 3882: Mrs. BENTLEY, and Mr. GILMAN.

H.R. 3885: Mr. FAZIO.

H.R. 3914: Mr. CLAY.

H.R. 3954: Mr. MAZZOLI.

H.R. 4018: Mr. NEAL and Mr. KOLTER.

H.R. 4040: Mr. HAYES of Illinois, Mr. TORRES, Mr. BUSTAMANTE, Mr. RICHARDSON, Mr. COYNE, Mrs. COLLINS, Mr. WOLPE, and Mr. CONYERS.

H.R. 4049. Mr. FLAKE, Mr. WYDEN, Mr. PANETTA, Mr. SAWYER, Mr. MORRISON of Washington, Ms. OAKAR, Mr. BATES, Mr. STAGGERS, Mr. MINETA, Mr. SOLARZ, Mr. OLIN, Mr. KENNEDY, Mr. ROSE, Ms. SLAUGHTER of New York, Mr. ATKINS, Mr. WALGREN, and Mr. BRUCE.

H.R. 4070: Mr. BARNARD, Mr. HOCHBRUECKNER, Mr. FEIGHAN, Mr. FOGLIETTA, Mrs. COLLINS, Mr. UPTON, Mr. KOLTER, and Mr. CHAPMAN.

H.R. 4115: Mr. ATKINS, Mrs. KENNELLY, Mr. CROCKETT, Mr. FAZIO, Mr. FISH, Mr. BLAZ, Mr. DEWINE, Mr. DORNAN of California, Mr. MICA, and Mr. ROWLAND of Connecticut.

H.R. 4198: Mr. PICKLE and Mr. CLEMENT.

H.R. 4221: Mr. COMBEST, Mr. BURTON of Indiana, Mr. PASHAYAN, Mr. OBERSTAR, Mr. VALENTINE, Mr. SHAYS, Mr. SLATTERY, Mr. WOLF, Mr. BORSKI, and Mr. DENNY SMITH.

H.R. 4226: Mr. HAYES of Illinois, Mr. HOUGHTON, Mr. HOCHBRUECKNER, Ms. OAKAR, Mr. NOWAK, Mr. SOLARZ, and Mr. KOLTER.

H.R. 4277: Mr. DORGAN of North Dakota, Mr. WALGREN, Mr. ROE, Mr. SCHAEFER, Mr. MARKEY, Mr. KASTENMEIER, and Mr. JOHNSON of South Dakota.

H.R. 4325: Mr. LOWRY of Washington.

H.R. 4380: Mr. MOLLOHAN, Mr. LANCASTER, Mr. HUBBARD, and Mr. BRYANT.

H.R. 4432: Mr. LELAND.

H.R. 4434: Mr. PETRI and Mr. RITTER.

H.R. 4438: Mr. TAUKE, Mr. CHAPMAN, Mr. GUNDERSON, Mr. KANJORSKI, Mr. BRENNAN, and Mr. MCMILLEN of Maryland.

H.R. 4454: Mr. LAGOMARSINO.

H.R. 4474: Mr. BROWN of California, Mr. GREEN, Mr. COURTER, Miss. SCHNEIDER, Mr. DE LUGO, and Mr. SMITH of New Jersey.

H.R. 4495: Mr. CHAPMAN, Mr. NOWAK, Mr. WORTLEY, Mr. JONTZ, Mr. STANGELAND, Mr. CLEMENT, Mr. CHENEY, Mrs. BENTLEY, and Mr. SPRATT.

H.R. 4497: Mr. DONALD E. LUKENS, Mr. EVANS, and Mr. WELDON.

H.R. 4501: Mr. NEAL and Mr. CRANE.

H.R. 4526: Mr. ROBINSON, Mr. HOUGHTON, Mr. BROOMFIELD, Mr. NELSON of Florida, Mr. SAVAGE, Mr. SKAGGS, and Mr. EARLY.

H.R. 4578: Mr. VALENTINE, Mr. BOUCHER, and Mr. COBLE.

H.R. 4598: Mr. GINGRICH.

H.R. 4618: Mr. MONTGOMERY, Mr. MCGRATH, Mr. WORTLEY, Mr. SAXTON, Mr. DYSON, Mr. DAVIS of Illinois, Mr. BEREUTER, and Mr. MCCURDY.

H.R. 4635: Mr. ROWLAND of Connecticut.

H.R. 4652: Mr. HASTERT, Mr. DONALD E. LUKENS, and Mr. HILER.

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H.R. 4655: Mr. LOWRY of Washington, Mr. OWENS of Utah, Mr. BATES, Mr. BRYANT, and Mr. BRUCE.

H.R. 4680: Mr. GIBBONS.

H.J. Res. 35: Mr. PACKARD.

H.J. Res. 104: Mr. PACKARD.

H.J. Res. 145: Mr. HOCHBRUECKNER, and Mr. DEWINE.

H.J. Res. 438: Mr. SISISKY, and Mr. EDWARDS of Oklahoma.

H.J. Res. 453: Mr. MCHUGH, Mr. STENHOLM, Mr. GRAY of Illinois, Mr. NOWAK, Mr. RINALDO, Mr. HANSEN, Mr. MATSUI, Mr. HAYES of Louisiana, Mr. COURTER, and Mr. KOLTER.

H.J. Res. 464: Mr. YOUNG of Florida and Mr. PACKARD.

H.J. Res. 476: Mr. SCHUMER, Mr. STENHOLM, Mr. TALLON, Mr. BRUCE, Mr. MORRISON of Washington, Mr. TRAFICANT, Mr. HILER, Mr. JEFFORDS, Mr. BARTLETT, Mr. DIOGUARDI, Mr. JONES of Tennessee, Mr. STUMP, Mr. LEWIS of California, Mr. HOUGHTON, Mr. LIVINGSTON, Mr. DREIER of California, Mr. CHANDLER, Mr. VANDER JAGT, Mr. NATCHER, Mr. PRICE of North Carolina, Mr. HUTTO, Mr. PASHAYAN, Mr. DICKINSON, Mr. DURBIN, Mr. HOLLOWAY, Mr. GRANDY, Mr. LOTT, Mr. RAY, Mr. BARNARD, Mr. SWIFT, Mr. HALL of Ohio, Mr. HAWKINS, Mr. WYLIE, and Mr. NEAL.

H.J. Res. 485: Mr. ANDREWS, Mr. BROWN of Colorado, Mr. BUSTAMANTE, Mr. CHANDLER, Mr. CLARKE, Mr. COBLE, Mr. CONYERS, Mr. CRAIG, Mr. DEFAZIO, Mr. DIXON, Mr. FASCELL, Mr. FLORIO, Mr. GILMAN, Mr. HAMILTON, Mr. HEFNER, Mr. HUBBARD, Mrs. KENNELLY, Mr. MACK, Mr. MCCOLLUM, Mr. OBERSTAR, Mr. PACKARD, Mr. PICKETT, Mr. SIKORSKI, Mr. SKEEN, Mr. SMITH of New Jersey, Mr. ROBERT F. SMITH, Mr. STANGELAND, Mr. UPTON, Mr. WYDEN, and Mr. HAMMERSCHMIDT.

H.J. Res. 488: Mr. BATES, Mr. BLAZ, Mr. BLILEY, Mr. BOLAND, Mr. BORSKI, Mr. BROWN of Colorado, Mr. BUSTAMANTE, Mr. CARPER, Mr. COLEMAN of Texas, Mr. CONYERS, Mr. COURTER, Mr. DIOGUARDI, Mr. DORGAN of North Dakota, Mr. DOWDY of Mississippi, Mr. DAVIS of Michigan, Mr. BATEMAN, Mr. FLORIO, Mr. FRENZEL, and Mr. GILMAN.

H.J. Res. 518: Mr. DENNY SMITH, Mr. JOHNSON of South Dakota, Mr. RANGEL, Mr. FRENZEL, and Mr. AUCOIN.

H.J. Res. 520: Mr. ROE, Mr. MORRISON of Connecticut, Mr. CALLAHAN, and Ms. SNOWE.

H.J. Res. 539: Mr. BATES, Mr. BLAZ, Mr. BLILEY, Mr. BOUCHER, Mr. BROOMFIELD, Mr. BRUCE, Mr. CLARKE, Mr. CLEMENT, Mr. COLEMAN of Texas, Mr. CONYERS, Mr. DINGELL, Mr. EMERSON, Mr. GUARINI, Mr. HARRIS, Mr. HENRY, Mr. HOYER, Mr. KENNEDY, Mr. LEHMAN of California, Mr. MADIGAN, Mr. NELSON of Florida, Mr. NIELSON of Utah, Mr. PERKINS, Mr. PICKETT, Mr. SAWYER, Mr. SISISKY, Mr. STALLINGS, Mr. TRAFICANT, Mr. TRAXLER, Mr. WYLIE, and Mr. YOUNG of Florida.

H.J. Res. 553: Mr. SPENCE, Mr. PACKARD, Mr. TOWNS, Mr. TRAFICANT, and Mr. WALGREN.

H.J. Res. 566: Mr. TRAFICANT, Mr. DREIER of California, Mr. SWINDALL, Mr. EMERSON, Mr. DAUB, Mr. HASTERT, Mr. PORTER, Mr. KYL, Mr. STANGELAND, Mr. INHOFE, and Mr. DAVIS of Illinois.

H.J. Res. 567: Mr. LAGOMARSINO, Mr. WILSON, Mr. MRAZEK, Mr. TOWNS, and Mr. RODINO.

H.J. Res. 571: Mr. MATSUI, Mr. SOLARZ, Mr. ERDREICH, Mrs. JOHNSON of Connecticut, Mr. FAWELL, Mr. TORRICELLI, Mr. HARRIS, Mr. LELAND, Mr. MINETA, Mr. ACKERMAN, and Mr. MOLLOHAN.

H. Con. Res. 28: Mr. LAGOMARSINO.

H. Con. Res. 253: Mr. WOLPE, Mr. MATSUI, Mr. LEVIN of Michigan, Mr. FAZIO, and Mr. LEVINE of California.

H. Con. Res. 260: Mr. SWIFT, Mr. WALGREN, Mr. SMITH of Iowa, Mr. WALKER, Mr. HERGER, and Mr. HOYER.

H. Con. Res. 265: Mr. CHENEY.

H. Con. Res. 277: Mr. TORRES, Mrs. MORELLA, Mr. BEILENSON, Mr. FUSTER, Mr. WYDEN, Mr. LOWRY of Washington, Mr. MINETA, Mr. FEIGHAN, Mr. FOGLIETTA, Mr. BOUCHER, Mr. CONYERS, Mr. RANGEL, Mr. RODINO, Mr. DYMALLY, Mr. CROCKETT, Ms. KAPTUR, and Mr. FRANK.

H. Con. Res. 298: Mr. THOMAS of Georgia, Mrs. MARTIN of Illinois, and Ms. SLAUGHTER of New York.

H. Con. Res. 301: Mr. DONALD E. LUKENS, Mr. COURTER, and Mr. MRAZEK.

H. Con. Res. 304: Mr. BATES, Mr. LIPINSKI, Mr. BROWN of California, Mr. HAYES of Illinois, Mr. FAUNTROY, Mr. RAHALL, Mr. DYMALLY, Mr. WHEAT, Mr. STUDDS, Mr. RODINO, Mr. DELLUMS, Mr. TRAFICANT, Mr. KILDEE, Mr. WALGREN, Mr. DINGELL, Mr. MORRISON of Connecticut, and Mr. CROCKETT.

H. Res. 379: Mr. DE LUGO, and Mr. FISH.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4526: Mr. RHODES.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

176. By the SPEAKER: Petition of Central Latinoamericana de Trabajadores Mar Del Plata, Argentina, relative to Latin American Confederation of Workers; to the Committee on Interior and Insular Affairs.

177. Also, Petition of the city of Oldsmar, FL, relative to tax exempt status of State and municipal bonds; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4418

By Mr. BOEHLERT:

—On page 2, line 18, strike "$170,000,000" and insert in lieu thereof "$156,000,000."

On page 2, line 25, strike "$116,000,000" and insert in lieu thereof "$15,000,000."

On page 3, after line 2, insert "(12) Science and Technology Centers, $30,000,000."

H.R. 4505

By Mr. BOEHLERT:

—At the end of the bill, add the following new section:

"SEC. . CLEAN COAL TECHNOLOGY.—No funds are authorized and no funds appropriated or otherwise made available to the Department of Energy may be obligated or expended in fiscal year 1989 for clean coal technology demonstration projects unless the United States has first established schedules and standards to achieve a substantial reduction in airborne emissions of sulfur and nitrogen oxides which are precursors of acid deposition. This section shall not apply to the 11 demonstration projects already selected for co-funding pursuant to Public Law 99-190 and Department of Energy Program Opportunity Notice number DE-PS01-86FE60966."

—Page 9, line 16, through page 10, line 12 amend subsection (2) to read as follows:

(2) FOREIGN PARTICIPATION.—The Secretary shall not expend any funds authorized under subsection (1)(d), until the Secretary receives commitments of foreign participation totaling no less than 25 percent of the total estimated cost of the superconducting super collider project.

EXTENSIONS OF REMARKS

A NEW PARTNERSHIP FOR PLURALISM AND PROSPERITY

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. TORRICELLI. Mr. Speaker, a few days ago our colleague, the gentleman from New York [Mr. SOLARZ], delivered an address on the promotion and preservation of democracy in Latin America before the Democratic Party's platform committee.

In his address, Mr. SOLARZ persuasively argued that the promotion of new democracies and the preservation of existing ones, in Latin America and elsewhere around the world, should be a major foreign policy priority of the next administration. Indeed, he eloquently made the case that important American diplomatic, economic, and strategic interests would be served if we paid more attention to encouraging the spread of democracy.

Mr. Speaker, it is my judgment that the ideas put forth by Mr. SOLARZ ought to be seriously considered by the American people as they go about the business of selecting a new President this fall. Mr. SOLARZ'S insights and recommendations deserve the widest possible audience. I commend them to my colleagues, and I ask leave now to place them in the RECORD.

A NEW PARTNERSHIP FOR PLURALISM AND PROSPERITY: THE DEMOCRATIC PARTY AND DEMOCRACY IN LATIN AMERICA

(By Congressman Stephen J. Solarz)

DEMOCRATIC PLATFORM COMMITTEE, DEFENSE AND FOREIGN POLICY FORUM, MAY 20, 1988

I have been asked to speak for a few minutes this morning on democracy in Latin America.

In my view the promotion and preservation of democracy—not just in South America but in southern Africa and South Korea, not just in Panama but in Poland and Pakistan—should be a major foreign policy priority of the next administration.

By now it should be abundantly clear that the promotion of new democracies and the preservation of existing ones clearly serve important American interests.

Diplomatically, the promotion and preservation of democracy will advance a broad range of U.S. foreign policy objectives, since democratic governments are more likely to share our goals and much less likely to pursue those of our adversaries.

Economically, the promotion and preservation of democracy is likely to strengthen the global economy, since political pluralism is usually associated with market economies that facilitate economic growth, while totalitarian regimes tend to be associated with command economies that more often than not stifle economic growth.

Militarily, the promotion and preservation of democracy will contribute to peace, since history teaches us that democratic countries are considerably less likely than their nondemocratic neighbors to resort to armed force.

Had previous administrations accepted the essential truth of these propositions and acted accordingly, then perhaps we would not now be saddled with a Sandinista regime in Nicaragua that has threatened the peace and stability of Central America.

Had earlier administrations more actively promoted democracy in Cuba, then perhaps we would not now be faced with a Soviet ally 90 miles from our own shores.

It is, of course, one thing to acknowledge the general desirability of democracy, and quite another to figure out the best way to promote and sustain it.

And here we need to distinguish conceptually between encouraging the establishment of democracy where it does not exist, and supporting it where it already exists.

How does one actually go about promoting democracy in countries currently ruled by repressive regimes, be they tyrannies of the Left or dictatorships of the Right?

First, presidential and congressional pronouncements on pluralism can buoy the hopes of the oppressed and embarrass their oppressors.

And here I feel compelled to note that the statement made by Vice President Bush in Manila in 1981, where he praised President Ferdinand Marcos for his "love of democracy," constitutes a precise formula for how not to promote the spread of democracy in repressive regimes around the world, inasmuch as it demoralized the oppressed and enhanced the morale of their oppressors.

Second, where we have foreign aid programs, we can condition the offer or continuation of our economic and security assistance on specific democratic reforms and a real respect for fundamental human rights.

Third, in cases where assistance is not available as a lever, economic sanctions can be imposed, although we must remember that sanctions work best when they are multilateral rather than unilateral.

Finally, the National Endowment for Democracy offers an effective means for strengthening democratic organizations and institutions throughout the hemisphere.

At the very least, we must permit no doubt in anyone's mind that the United States stands on the side of democracy rather than dictatorship.

In deciding which methods will most effectively advance the cause of democracy in our own hemisphere, we should be influenced in part by the views of the democratic opposition in the countries concerned.

Surely these courageous men and women are entitled to the presumption that they know best how to promote the cause to which they have pledged "their lives, their fortunes, and their sacred honor."

But while we attempt to promote pluralism through political and economic means, we should refrain from the use of force as a way of supporting the establishment of new democracies.

A direct American intervention in Panama, as some have suggested, would fan the flames of anti-Americanism throughout the hemisphere, transform Noriega from a widely despised thug into a symbol of resistance to Yankee imperialism, and generate considerable concern on the part of our allies abroad.

Similarly, we must recognize that in Nicaragua we have a far better chance of achieving our objectives and advancing the cause of democracy at the negotiating table than on the battlefield.

But while opposing the resumption of military aid to the contras—both because it is counterproductive and because it sets a dangerous precedent for interventionism elsewhere—we must not be indifferent to the struggle of Nicaraguan democrats for pluralism in their country, and we must be willing to use our political and economic leverage to encourage the establishment of a genuinely free society in Nicaragua.

Indeed, it is particularly important that we Democrats harbor no illusions about the Sandinistas, whose record of repression makes it clear that they have far more in common with Leninists with a large "L" than with democrats with a small "d."

Finally, given historic Latin sensitivities to American intervention in their internal affairs, we must make every effort to promote our objectives in Latin America in a multilateral context rather than on the basis of unilateral initiatives.

Just as the Reagan administration erred in jumping out ahead of our Latin American friends in Panama, it was also mistaken in not more actively backing the Arias Plan and the Sapao accord, which has received the support of all of Central America's democracies.

Undoubtedly there will be times when our capability to promote democracy abroad will be severely circumscribed by political and strategic realities.

It would, for instance, have been exceptionally ill-advised for Franklin Roosevelt to insist on conditioning lend-lease assistance to the Soviet Union in 1941, with the Nazis at the gates of Moscow, on Stalin's willingness to initiate a multiparty system and eliminate the gulag.

But to concede that we may not be able to promote democracy everywhere must not be allowed to become a pretext for promoting it nowhere.

Iran, Nicaragua, and Cuba should remind us of the price we have paid for an indifference to the suppression of democracy in the name of security, just as the recent transitions from dictatorship to democracy in the Philippines and South Korea should remind us that the best way to protect our interests is to promote our ideals.

Of course the mere fact that a country has successfully made a transition to democracy hardly guarantees that it will remain democratic.

The history of Latin America is replete with examples of democrats overthrown by colonels and generals who believed that they were better able than those who had been elected by the people to guide the affairs of state.

In the 1970s, when democracies were the exception and dictatorships the rule in the hemisphere, our principal emphasis rightly

lay in the promotion of political pluralism and human rights

President Carter's human rights policies were particularly well-suited for this task, and left an important legacy of American concern for individuals who were tortured by tyrants and people who were denied democracy by dictatorships.

In the late 1980s, however, now that a democratic tide has swept over the hemisphere and dictatorships are the exception rather than the rule, our task is somewhat different.

Now we must concentrate as much on sustaining currently existing democracies as on promoting the establishment of new democratic governments.

Perhaps the greatest threat to existing democracies lies in the economic and social crisis that envelopes the hemisphere.

If current governments in Peru, Argentina, Brazil, and elsewhere fail to translate the promise of democracy into a better life for their people, they could easily fall victim to a tide of popular disenchantment and a new wave of military despotism.

If the governments of El Salvador, Guatemala, and Honduras are unable to deal more effectively with the underlying social injustices and economic inequities that pervade their societies, the prospects for revolutionary movements and the establishment of even more frightening tyrants will be significantly enhanced.

In seeking ways to shore up these struggling democracies, we need to adopt a 3-pronged approach centering on trade, aid, and debt.

We must, for instance, review our trade and tariff policies to insure that Latin American economic revival is not being undermined by inflexible or discriminatory protectionist measures on our part.

To cite on example, the current quota system enjoyed by U.S. sugar growers, by limiting foreign sales in the United States, exacts a huge price on overseas sugar producers in terms of lost revenues, unemployment, and increased social discontent.

This year we will give the democratic nations of the Caribbean a total of $106 million in military and economic assistance.

But at the same time, U.S. sugar quotas will cost them something on the order of $275 million in sales, thereby wiping out whatever beneficial impact American assistance might otherwise have had.

In another area, we must be prepared to provide besieged democracies with greater economic assistance, despite the constraints imposed by our budget deficit, so that they can have the resources they need to deal with the problems that confront their people.

Finally, the United States must use its influence in the International Monetary Fund and with American banks to facilitate a restructuring of Latin American debts to allow longer periods of amortization and lower rates of interest.

In the 1930s, the United States under Franklin Roosevelt's leadership developed the Good Neighbor Policy.

In the 1960s, under John Kennedy's guidance we came forward with the Alliance for Progress.

As we move into the 1990s under what we all hope will be a Democratic administration, what we need is a new Partnership for Pluralism and Prosperity—a partnership based upon the same kind of constructive and cooperative relationships between the United States and its democratic friends in Latin America as we had under the earlier Democratic administrations of Presidents Roosevelt and Kennedy.

CAPT. FRED MOOSALLY ASSUMES COMMAND OF THE U.S.S. "IOWA"

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. SKELTON. Mr. Speaker, on May 23, Navy Capt. Fred Moosally assumed command of the battleship U.S.S. *Iowa*. We in the House remember Captain Moosally as the House chief of legislative liaison and what a fine professional representative of the Navy he was. I had the opportunity to attend his assumption of command ceremony where he relieved another outstanding naval captain, Capt. Larry Seaquist. Also in attendance were Congressman OWEN PICKETT, Congressman HERBERT BATEMAN, and Captain Moosally's lovely wife Joan and their three children. I know the other Members of the House join me in expressing best wishes to Captain Moosally as captain of that great battleship. Captain Moosally made the following remarks at the ceremony which are set forth as follows:

CAPTAIN MOOSALLY'S REMARKS

Congressman Skelton, Congressman Pickett, Congressman Bateman, Admiral Donnell, Admiral Boorda, Admiral Pappas, Admiral Bennet, my dear family and friends, fellow naval officers and *Iowa* family, when I left command approximately two and a half years ago, I stated that God and the Navy willing I would be back in command at the earliest opportunity. Since receiving my orders and after reporting to *Iowa* for duty I have thanked God many times and am very grateful to the Navy for having confidence in my abilities and ordering me as CO of *Iowa*. It is something I could only dream of when I stood in President Roosevelt's bathtub eight years ago as XO of U.S.S. *Maham* and had my picture taken with our command career counselor.

In reflection I would like to recognize the many individuals who inspired me to the naval profession and assisted me in my growth as a naval officer. Some have retired taking a piece of me with them, some are stationed at distant places, many are here today. I thank them all so very much. I give special thanks to the members of the House Armed Services Committee, Congressmen Skelton, Pickett, and Bateman for taking time out of their busy schedule to honor me this day. I, the Navy and more particularly the tidewater area owe you all so very much for your strong support. My special friend, Congressman Skelton, thank you for your inspiration and the wonderful education you gave me during my tour on Capitol Hill. You, along with the other Congressmen, staff members and friends from industry here today broadened my reach and increased my depth in mind in those two years.

Captain Seaquist, thank you for a great turnover. You sir, have left me with some big shoes to fill, but also a great wardroom and crew to help me do the job. You have moved *Iowa* forward on every front, cleanliness, preservation, material condition, tactically and strategically. You have educated the Navy in what battleships do. Most importantly the crew I am inheriting smiles a lot. That's the best indicator a CO can have of a job well done. We will carry on with the standards you have set—we will move forward and to new heights. God bless you and Carla as you depart *Iowa* and head to your new duty station. I wish you all the best.

NATIONAL GLEANING CLEARINGHOUSE

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. HALL of Ohio. Mr. Speaker, recent months have witnessed a sharp decline in Government stockpiles of surplus food. As a result, the Temporary Emergency Food Assistance Program [TEFAP] which provides surplus cheese, butter, dry milk, rice, honey and flour to an estimated 25 million people every month, is in danger of elimination. While the Government should renew its commitment to ending hunger in the United States, we need to find new private-sector ways to help beat the hunger epidemic.

Today I am introducing the National Gleaning Clearinghouse Act of 1988. This bill sets up a clearinghouse at the Department of Agriculture to help private nonprofit organizations run gleaning projects in which leftover food that would otherwise be wasted, can be gathered and donated to hungry people. With Government resources shrinking, we should help stimulate private low-cost projects like gleaning to find food for those who are still hungry.

Gleaning is the practice of gathering crops that are left over from the fields after harvesting for donation to people in need. Gleaning can also be done from producers, processors, and retailers of agriculture commodities who reject perfectly edible products that cannot be used. The General Accounting Office [GAO] estimates that 60 million tons of food worth $5 billion rots in the fields, unpicked and uneaten.

Right now individuals and food bank personnel are gleaning to help feed hungry people in their communities all over the country. In my own congressional district of Dayton, OH, we gleaned over 52 tons of food with the help of volunteers from schools, churches, businesses and community groups. Congressional testimony has pointed to the need for a clearinghouse to help these groups flourish.

My bill allows the National Gleaning Clearinghouse to distribute information on groups that may have gleaned and who wish to donate food. It establishes an 800-telephone number for groups to call and report information, as well as obtain materials for gleaning. It encourages nonprofit groups to set up gleaning activities and helps identify crops that may go wasted. In essence, this clearinghouse will help private sector groups all over the country to network.

Mr. Speaker, this is a simply way for the public and private sectors to work together to feed needy individuals, including low-income and unemployed people. I am happy to submit a copy of my bill:

NATIONAL GLEANING CLEARINGHOUSE

SEC. 1. THIS ACT SHALL BE KNOWN AS THE NATIONAL GLEANING CLEARINGHOUSE ACT OF 1988.

SEC. 2. DEFINITION OF GLEANING.

For the purpose of this Act, the term "to glean" means to collect unharvested crops from the fields of farmers, or to obtain agricultural products from farmers, processors, or retailers, in order to distribute such products to needy individuals, including unemployed and low-income individuals. "Gleaning." under this Act, includes only those situations in which agricultural products and access to fields and facilities are made available without charge.

SEC. 3. NATIONAL GLEANING CLEARINGHOUSE.

A. There is hereby established in the Extension Service of the Department of Agriculture a National Gleaning Clearinghouse (hereinafter referred to as "the Clearinghouse").

B. Through the Clearinghouse, the Secretary of Agriculture shall:

1. Encourage public and nonprofit private organizations to initiate and carry out gleaning activities, and to assist other organizations and individuals to do so, through lectures, correspondence, consultation, or such other measures as the Secretary may deem appropriate.

2. Collect from public and private sources (including farmers, processors, and retailers) information relating to the kinds, amounts, and geographical locations of agricultural products not completely harvested.

3. At reasonable intervals. As determined by the Secretary. Gather, compile, and make available to public and non-profit private organizations and to the public the statistics and other information collected under subsection 2 above.

4. Establish and operate a toll-free telephone line by which—

a. farmers, processors, and retailers may report to the Clearinghouse, for dissemination, information regarding unharvested crops available for gleaning, and may also report how they may be contacted;

b. public and nonprofit private organizations that wish to glean or to assist others to glean, may report to the Clearinghouse the kinds and amounts of products that are wanted for gleaning, and may also report how they may be contacted;

c. persons who can transport crops or products may report the availability of free transportation for gleaned products; and

d. information about gleaning can be provided without charge by the Clearinghouse to the persons and organizations described in paragraphs a. b. and c above.

5. Prepare, publish, and make available to the public, at cost and on a continuing basis, a handbook on gleaning that includes such information and advice as may be useful in operating efficient gleaning activities and projects, including information regarding how to—

a. organize groups to engage in gleaning, and

b. distribute to needy individuals, including low-income and unemployed individuals, food and other agricultural products that have been gleaned;

6. Advertise in print, or on radio or television, as the Secretary considers to be appropriate, the services provided by the Clearinghouse under this Act.

SEC. 4. THIS ACT SHALL TAKE EFFECT IMMEDIATELY UPON ENACTMENT.

TRIBUTE TO LAWRENCE ATLAS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to a businessman, a constituent and a friend—Larry Atlas. On Saturday evening, June 11, at the New York Hilton, Larry will be honored by the National Kidney Foundation of New York and New Jersey as "Humanitarian of the Year." If anyone deserves such an honor, it is Larry.

I know that this award has a special meaning to Larry because his father, the late David Atlas, was posthumously selected as the recipient in 1982. Although I never knew David Atlas, I know that if he were alive today he would be proud of his son's charitable work on behalf of the National Kidney Foundation and the many other endeavors in which Larry has been involved.

Mr. Speaker, the presentaton of the National Kidney Foundation's award to Larry coincides with the 20th anniversay of Larry's first battle with kidney disease and his two-decade association with the foundation. Larry was not only a witness to the many advances made in the treatment of renal disease, but an active participant in these medical advances, including the greatest gift a mother can give—the "Gift of Life." In 1980, Larry's mother, Norma, gave one of her kidneys to Larry. That kidney lasted for 4 years.

Over the past 20 years, Larry has withstood drug therapy, endured hemodialisis and suffered through periodic transfusions. In spite of the immense physical toll that these procedures have placed on Larry, he has emerged into one of the many noteworthy young businessmen of New York City and a true mensch.

Larry attended Queens College of the City University of New York where he was active in the Council of Jewish Organizations and the student government. In addition, he served as business manager of Ha-Or, one of the campus' weekly newspapers, and was affectionately known as the "Great Schnurer on Campus" because of his fundraising prowess. During Larry's years at Queens College, he nurtured many friendships that will last life long. In addition, Larry has always regarded family life as important. He is a devoted son and brother, and a loving uncle.

Larry stepped into his father's shoes after his dad's untimely death and became the copartner of Atlas Floral Decorations. Under Larry's stewardship, the firm has flourished as no other company in Queens has. For a person so young, Larry has accomplished so much.

Mr. Speaker, I call on my colleagues in the House of Representatives to join me in offering my congratulations to Lawrence Atlas; his mother, Mrs. Norma Atlas; and to his family and friends. Indeed, New York is a better place to live because of Larry.

TRIBUTE TO BARBARA BARTLOW McKINNEY

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. DELLUMS. Mr. Speaker, I rise today to honor and celebrate the career of Barbara Bartlow who is retiring June 15, 1988 from the Berkeley Unified School District, Berkeley, CA, where she has been a teacher of distinction since 1954, and a valued staff member of Jefferson School for 27 years.

She was born to a pioneer Berkeley family, the second oldest of six children; she put herself through school working as a clerk and in the local cannery. She is a graduate of Berkeley High School and of San Francisco State University where she earned her coveted teaching credentials.

She is a daughter of the depression whose youth was influenced by World War II, who rode the crest of civil rights activism and was professionally involved in the desegregation of the Berkeley schools; she surmounted any stumbling block that would keep her from delivering a message of hope, confidence and good will to students, parents, and community.

Barbara McKinney's life as a multitalented person has been and remains a role model to all. Endeared wife, mother of four, grandmother, aunt, and business woman, she has made time to sing and travel with the Berkeley Community Chorus, be an active citizen and church member while devoting herself to her cherished profession.

No greater tribute was ever sought by this teacher than to be one. She felt her place was in the classroom close to the children. Her career has been dedicated to the achievement of more than a thousand children whose lives she has influenced beyond our reckoning.

Barbara Bartlow McKinney is special lady who has made her positive imprint on the history of our land.

HOME IS WHERE THE HEART IS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. MILLER of California. Mr. Speaker, once again, we are confronted by the decade's most unconscionable problem: the long-term consequences of homelessness among a growing number of children and families. A new report, "Home is where the Heart Is: The Crisis of Homeless Children and Families in New York City," prepared by the Bank Street College of Education, exposes the crises facing the 11,000 homeless children and their families living in New York transitional shelters.

The overwhelming problem of inadequate and largely unavailable low-income housing, severely exacerbated by the policies of the administration, are unlikely to be resolved soon. In the meantime, according to the

report, children are suffering the consequences.

The report's findings reaffirm the evidence collected by the Select Committee on Children, Youth, and Families that children endure extremely harmful health, developmental, and academic outcomes as a result of homelessness.

Bank Street researchers visited 15 programs that serve homeless children, and made weekly observations of homeless children over a 6-month period at one onsite day care program. They made the following findings: There are 10,945 homeless children in New York City; half of them are under age 5; 10 percent are under age 1.

Shelter arrangements.—10 percent of New York City's homeless children are sheltered in barracks-style, congregate facilities; 21 percent are in shelters run by not-for-profit organizations; 69 percent are in welfare hotels.

Health and nutritional status.—One in six of the infants born to mothers in New York City welfare hotels are low-birthweight; the infant mortality rate in welfare hotels is 24.9 per 1,000 newborns, compared to 10.6 citywide; more than half of all pregnant women in welfare hotels in 1985 received minimal or no prenatal care; three-fourths of children living at the Martinique Hotel are under- or non-immunized; homeless children receive $2.13 a day (per person) for a restaurant allowance, plus $1.58 a day in food stamps.

Access to services.—Forty-nine percent of family members in New York City shelters who are eligible for food stamps do not receive them; only one shelter has an onsite WIC office; only 50 percent of homeless children ages 6 to 17 attend school; there are some 6,000 school-age children. By Labor Day, 1987, only 583 had been registered for school; there are 850 early childhood education slots for the 5,500 children birth to 5 years of age; the majority of these are for 3- to 5-year-olds.

Bank Street researchers also observed significant developmental problems among the homeless preschoolers: short attention spans, weak impulse control, withdrawal, aggression, speech delays, sleep disorders, regressive toddler-like behaviors, and inappropriate social interactions with adults and peers. These are extremely troublesome findings, given what we know about the vulnerability of very young children during this important stage of their development.

I urge my colleagues to consider these findings as well as the recommendation of Bank Street College calling for "immediate action to halt the potentially damaging effects of homelessness on young children." We will have several opportunities during the remainder of this legislative session to redress the problems of homeless families, as we consider the reauthorization of the Stewart B. McKinney Homeless Assistance Act, the fiscal year 1989 HUD appropriations for low-income housing assistance, and the critically important Fair Housing Act, which would prohibit housing discrimination against families with children.

A SALUTE TO THE REESE, ERVIN, McKAY AND McCOLLUM FAMILY REUNION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. STOKES. Mr. Speaker, on behalf of the residents of the 21st Congressional District of Ohio, I would like to take this opportunity to salute the members of the Reese, Ervin, McKay and McCollum families who will be celebrating their second family reunion during the weekend of August 12–14, 1988, in Cleveland, OH. The Reese, Ervin, McKay and McCollum family are descendants of Richard and Fannie Reese of Bennettsville, SC.

Mr. Speaker, these families have endured many trials and tribulations over the years. Yet, they have maintained their love, devotion, and commitment to one another. I would like to share with my colleagues a poem which I feel reflects the vitality and spirit of these families. I ask that we join in extending heartfelt best wishes to the entire family on this special occasion.

TRIBUTE

It's so nice to see all the folks you love together,
Sitting and talking about all the memorable yesteryears,
Family reunions are like a Golden Chain,
The links are relatives so close and dear.
And like rare and precious jewels,
Their love is measured more each year.
Family members' love is deep and true,
And it is rich with happy, loving memories.
And fond recollection, too.
The Golden Chain of Family Love,
Is a strong and blessed tie,
Binding kindred related hearts together,
As the years go passing by.

HONORING FATHER CHARLES FRANK GONET

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. CONTE. Mr. Speaker, I rise today to extend my warmest congratulations to Rev. Charles Frank Gonet as he celebrates the 30th anniversary of his ordination Sunday, June 5. I join the family, friends and parishioners of Father Charles in giving thanks for his spiritual leadership and community concern throughout the years.

Father Charles responded to his divine call to the priesthood soon after he graduated from Agawam High School in 1948. He entered the Stigmatine House of Studies in Waltham in 1949 and served his novitiate year in Springfield in 1951 and 1952. Father Charles then entered the Pontifical University of St. Thomas Aquinas in Rome, where he completed his studies in philosophy and theology in 1958. On May 31, 1958, he was ordained into the priesthood at the Arch Basilica of St. John Lateran in Rome.

Father Charles undertook his first priestly appointment at the Stigmatine Junior Seminary in Wellesley, where he served as an assistant in 1958 and 1959. He was then appointed to the Sacred Heart Church in Timmins, Ontario, where he served until 1964. At that time, he returned to western Massachusetts to my own parish of Mt. Carmel in Pittsfield, where I came to know firsthand his sincere devotion to sustaining the spiritual strength of his parishioners. After 2 years with parish of St. Francis in Lynn from 1967 to 1969, Father Charles was appointed to serve the people of St. Thomas the Apostle in west Springfield. Between 1976 and 1982, Father Charles served the parishes of St. Mary in Longmeadow and Our Lady of Hope in Springfield. In October 1982, he was honored with the appointment as pastor of St. Catherine of Siena Church in Springfield.

In addition to his duties as a parish priest, Father Charles directed the Newmann Club at Bay Path College in Longmeadow between 1976 and 1982, giving great time and energy to guide the Catholic student body.

Mr. Speaker, Father Charles has committed his life to the spiritual guidance and welfare of thousands and he will mark the anniversary of his priestly devotion to God with a mass of thanksgiving. My thoughts and my prayers will be with him.

AGRICULTURAL EXPORT SUBSIDIES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 1, 1988 into the CONGRESSIONAL RECORD:

AGRICULTURAL EXPORT SUBSIDIES

A year ago, as a new round of trade talks was getting under way in Uruguay, President Reagan announced that the United States would seek an agreement to end all agricultural export and production subsidies by the year 2000. The startling proposal has generated much discussion. Recently the countries involved in the General Agreement on Tariffs and Trade (GATT) talks agreed to seek an "approach" to reduction of agricultural subsidies. Achieving any agreement soon will be difficult.

Nearly all developed countries subsidize their farm sectors in one way or another. The intent is to increase farmers' income, ensure a safe supply of food, and support the economic base of rural communities. These objectives, while worthy, can be very costly. By some estimates, the industrial countries are spending as much as $240 billion a year on agricultural supports, twice the amount at the beginning of the decade. Farm subsidies have other costs, as well. Subsidized exports can distort world markets, causing greater price and supply volatility than would otherwise be the case. Domestic price supports can encourage production of crops already in surplus, discourage the regional production adjustments that would normally take place in response to changing demand, and raise world commodity prices, thus increasing consumer costs and allowing less efficient producers in other countries to remain competitive.

U.S. farmers and government officials frequently charge that agricultural subsidies are a problem created primarily by other countries. The European Community (EC) accounts for 43% of all farm subsidy spending; Japan accounts for 23%: and the U.S. share is 20%. On a per farmer basis, Japan's subsidies are the highest among the developed countries, more than double the U.S. rate. Only Australia and New Zealand have a lower level of farmer support than does the U.S. However, an accurate picture of the relative effect on world markets must take into account other factor as well. Since the United States is the largest producer of wheat and coarse grains, and controls a large share of the export market, U.S. subsidies have a significant impact on world price and supply.

The President proposes to abolish all farm subsidies which distort production, leaving food trade and prices to market forces. Countries would still be able to help maintain farmers' income, but would sever the connection of aid to prices and production. This plan is intended to benefit consumers and taxpayers by reducing government outlays and lowering food prices. Eliminating subsidies would also help concentrate agricultural production in those countries, like the U.S., which have an advantage in farming. Yet since the U.S. has increased its export subsidies sharply in recent years, it is difficult for Europe and Japan to take seriously the U.S. proposal to end such subsidies. It is also difficult for U.S. negotiators to agree to end or reduce subsidies without the willingness of the Congress to rewrite farm programs.

Several factors have recently come together to brighten the outlook for reducing agricultural subsidies. The major one is the staggering cost of the subsidies, and the huge commodity surpluses they generate. EC surplus stocks have risen dramatically in the past several years. Whereas U.S. subsidy costs have peaked and are now declining modestly, EC subsidy costs are still rising. Budgetary pressures in all countries have increased. In addition, aggressive U.S. actions to increase export subsidies and to recapture lost markets have impressed upon the EC the cost and risk of its current policies. The U.S. success in getting farm subsidies on the agenda of the current round of GATT talks has been an important step. Moreover, the likelihood that GATT will rule against Japanese import barriers puts pressure on Japan to lessen protection of its farmers.

But strong pressures continue to support the present system. The EC and Japan think the President's call for a complete elimination of production and export subsidies is too extreme. Success would require a commitment to simultaneous, step-by-step reductions by all governments. That would be very hard to achieve, especially given the variety of ways that governments subsidize agriculture. His plan would require that several U.S. farm programs be eliminated by the Congress. Even if U.S. trade negotiators can strike a deal overseas, I am doubtful that the Congress will suddenly find it desirable or possible to eliminate various federal farm subsidies. The President's proposal has reignited worries of boom and bust cycles for farmers and highly variable costs for consumers.

Moreover, international negotiations to reduce agricultural subsidies are difficult because each country has a deeply ingrained sense that self-sufficiency in food production is indispensable to its security. Although the costs of farm subsidies are high, they are small in relation to a country's total economy, and are often thought to be outweighed by the benefits of a secure food supply. In addition, tradition in almost every country is based on rural life, and a strong desire exists to protect farmers. Agriculture involves much more than just economics. It also involves social, cultural, and emotional consideration, which make the issue of farm subsidies difficult to resolve.

A major change in government agricultural policy will not be easy, but it is possible. New Zealand has ended all subsidies of commodity prices and farm inputs; the bulk of a farmer's income now comes from the sale of commodities at the market price. Any plan agreed to by the developed countries may well follow the New Zealand model—lessening direct price and production subsidies, while maintaining income subsidies to farmers and providing information and other direct assistance.

It is unlikely that any international agreement will soon be reached to end farm export and production subsidies. Yet I am encouraged that Governments are daring to talk about genuine reform.

THE REUNION OF "THE CHOSIN FEW"

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. SOLOMON. Mr. Speaker, last month a group of American and Korean war veterans, known as "The Chosin Few," held a reunion here in Washington. Each of these men survived the notorious siege at the Chosin Reservoir in 1950 during the Korean war.

The guest speaker at this year's reunion was Minister Sun-Sup Chang of the Embassy of the Republic of Korea. Minister Chang gave a stirring address in which he remembered the sacrifices that American and Korean soldiers made—and continue to make—in order to keep the lamp of freedom burning brightly in Northeast Asia.

Minister Chang also commented on the recent political and economic developments in the Republic of Korea that have inspired the admiration of the entire world. His remarks make clear that the 54,000 Americans and the 1,000,000 free Koreans who laid down their lives during the war did not die in vain.

I insert Minister Chang's remarks at this point in the RECORD:

IN HONOR OF THE CHOSIN FEW REUNION

President Borman, Rev. Wotring, Mr. Gauldin, Governor's Office, Members of Chosin Few, and Distinguished Ladies and Gentlemen:

It is a truly a great honor and a privilege for me to represent Korea at today's reunion of Chosin Few. This evening, my new Ambassador, Tong Jin Park, who incidentally arrived to Washington just a few days ago, asked me to convey to you that he was unable to take part in today's memorable event.

The reunion is memorable to us because it is a gathering of the old and true friends of the Korean people. The battle at Chosin (Changjin), various aspects of which were discussed at yesterday's panel, is recalled by many as "the epic of modern military history." It will never become a story of forgotten war. The Americans and their sacrifices made at Chosin and in Korea during the War will long be remembered with deep gratitude by the people of my country. They helped us defeat Communists from the North, and I believe they can be proud of that today.

Mr. Max Hastings, a British author, described graphically in a recently published book entitled "The Korean War" the feelings commonly shared by the Korean people towards the United States and other United Nations forces who fought and sacrificed in Korea. He wrote, I quote:

"Thousands of men who fought as United States and United Nations forces in Korea are deeply moved today by the gratitude that South Koreans still display for the salvation of their country from the Communists more than thirty years ago."

Perhaps this has been enhanced by watching South Vietnam submerged into a Communist state. Private Bill Norris of the 27th Infantry said that he saw Koreans today and the respect they showed for them. He contrasted this with the animosity he had seen in Europe after World War II. In Korea, he saw gratitude. Sergeant John Richardson, of the Canadian Army, believed passionately that war was worthwhile; and he said, again I quote:

"In October 1983, I had the great privilege of going back to Korea. It was the thrill of my lifetime. On my return to Canada, I simply told the former comrades-in-arms that I was convinced that our fellow comrades rest in a country where their sacrifice is fully appreciated."

Lt. Col. Roy Appleman of the US Army wrote in the preface of his book, "East of Chosin", about the memory of Chosin gradually disappearing in the minds of the people. He said:

"The men of the United States Armed Forces who fell on the east side of the Chosin (Changjin) Reservoir in the winter of 1950 have no white marble markers at their final resting places as do thousands of others memorialized in Arlington National Cemetery, in other national cemeteries, and in other lands. They have no markers of any kind—only the fragile link of memory that endures from generation to generation in the recollection of their countrymen who know our nation's history."

I believe that I speak for all Korean people when I say that if there are no white-marble markers anywhere in the United States for those who sacrificed their lives in the Chosin Reservoir, you will find those indelible markers in the hearts of hundreds of thousands of the Korean people who will never forget their noble sacrifices. Their indescribable hardship enabled the then two-year-old Republic of Korea to defend itself from the Communist onslaught from the North and preserve freedom and peace on the Korean peninsula. The people of Korea are forever indebted to those Americans who came to our rescue during one of the darkest hours of their history.

It is with this indebtedness in mind that when the United States asked our cooperation in Vietnam, Korea sent, without any hesitation, two Army Combat Divisions and a Marine Brigade to fight alongside U.S. forces in Vietnam. Our alliance has been forged through mutual help, sacrifice and everlasting comradeship.

Regarding some of the recent pressures from the United States to open Korea's markets and burden sharing in defense, The

Wall Street Journal on May 10th this year stated:

"Korea stands out as a country that wants to maintain U.S. military presence and even is willing to carry some more of the costs. At a time when precious few nations anywhere are willing to gamble on Democracy, Korea is doing precisely that."

The Korean War, including Chosin Reservoir, was not a wrong war in the wrong place and time. We are now witnessing the evolution and transformation of the Republic of Korea that demonstrates your sacrifice was not in vain. The economy is growing steadily, and democracy, as W.S.J. properly pointed out, began to flourish in the very land where, as you yourselves once observed, there was no hope whatsoever for the future. Only destruction, destitution and despair filled the air.

Let me now describe briefly what has become known as a miracle wrought by strenuous efforts of the people you helped survive the devastating war almost forty years ago.

Since last year, new developments in the political process have introduced a transformation which was never part of our country's long history. A process of democratization substituted the authoritarian rule that the country had known for such a long time. Great strides have been made in Korea's movement toward a more complete democracy.

The year 1988 marks a significant turning point in Korea's political development. In February, the first orderly transfer of government in our modern history took place. About a month ago, we held general elections in which the people demonstrated their desire, once again, for both change and stability. In some ways, the recent elections culminated a process of democratization that begun a year ago when the then Presidential candidate of the ruling party made the now historic proposal for sweeping democratic reforms. Since then, we as a nation have become more aware of the importance of dialogue and compromise. With this emerging understanding, the Korean domestic political context is being transformed into a more mature democratic framework. It is a happy coincidence that Korea will host the Olympic Games in the same year that democracy and political stability have taken root in Korea.

The Korean economy began to move forward in the early 1960's when we launched a series of economic development plans. For several years our plans have brought about success after success. Korea's economic picture begun to show important structural changes. For the first time in our history, we posted a trade and current account surplus which eluded us since the nation embarked on an aggressive export drive some 20 years ago. Our foreign debt, which has stood as high as 47 billion dollars, or more than half of our gross national product, began to shrink. More importantly, the rate of domestic savings began to steadily increase to meet our investment requirements.

Today, Korea has emerged as one of the world's major trading nations. Korea has become the seventh largest trading partner of the United States. More importantly, it is now the sixth largest market for U.S. products, passing such trading nations as France and Italy. In 1987, U.S. exports to Korea increased 34%, a rate exceeding that of the growth of U.S. exports to any other trading partner. The figure rose to 50% in the first quarter of this year.

Clearly, Korea's economic context is changing markedly as is it's political context. This is bound to generate a new set of circumstances and challenges. We are prepared to do whatever is necessary to expand the scope of cooperation increasing bilateral trade between the United States and Korea and mutual benefit.

It is my pleasure to report to you on our successful preparations for the Olympic Games to be held in Seoul, Korea from September 17th through October 2nd. All preparations for the Games are on or ahead of schedule. Everything is running smoothly. The construction of the 34 venues required for the 23 Olympic sports have just been completed. Most of the facilities proved satisfactory during the 1986 Asian Games and a series of pre-Olympic events. The theme for the Seoul Olympics is "Harmony and Progress." I am happy to see that the Olympic spirit exists not only in Seoul, Korea, but as we are coming closer to the Games, aspiration of mankind to live in harmony and in peace will prevail everywhere.

Speaking of peace, you must be proud of the fact that you came to Korea almost four decades ago to fight for peace. Those who fell during this fight dedicated their lives to the cause of peace. Without genuine peace, a life with dignity, freedom, and justice is simply impossible to maintain.

Each and everyone of you gave that life to the people of Korea. If it had not been in Chosin Reservoir, with all its noble sacrifices and heroic struggles, Korea would not have been able to accomplish what it is today.

You may not have noticed, but you have been instrumental in helping my country to realize tremendous and great achievements.

Thank you all who participated in the Chosin Reservoir Campaign, suffered, endured hardship and fell in the winter of 1950.

Thank You Chosin Few!
God Bless You All!!

COUNTING OVERSEAS MILITARY AND GOVERNMENT PERSONNEL FOR PURPOSES OF APPORTIONMENT

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. DYMALLY. Mr. Speaker, today I am introducing legislation which would require that members of the Armed Forces, civilian government personnel, and their dependents, stationed abroad during the 1990 decennial census, be counted in their State of residence for purposes of apportionment of the House of Representatives.

I am honored to be joined in this effort by Mrs. MORELLA of Maryland, the distinguished ranking minority member of the Subcommittee on Census and Population, which I chair.

Mr. Speaker, several bills have been introduced during this Congress to accomplish an objective similar to mine. Having expressed my support in the past for the concept of these bills, I want to commend the various sponsors, particularly Mr. RIDGE of Pennsylvania and Mrs. KENNELLY of Connecticut, for bringing this issue to the attention of their colleagues.

After holding a hearing on proposals to count overseas military and government personnel for purposes of apportionment, however, it became clear to me that several points needed to be addressed before the subcommittee could consider the legislation.

First, Congress needed to set the criteria for determining what the home State of individuals stationed overseas would be. Because we are dealing with a very political issue—reapportionment—such a decision should not be left to the Census Bureau, whose mission is to conduct the census in a nonpartisan manner.

For example, home State could be where a person pays taxes, or where a person votes, or a person's last duty station with the Government. It is obvious that, depending on the criteria chosen, very different results would be produced, because many overseas military personnel report as home a State with no income tax or their last duty station was more likely to be a coastal State. Also, the Defense Department informed us that using "home of record" as the criteria for military personnel would be almost meaningless since the term refers to the place where the individual was inducted into the service.

Second, I believe that we should be consistent in our policy on this issue. If we are going to include members of the Armed Forces, civilian employees of the Department of Defense, and their dependents, in the State population totals used for reapportionment, then we also should include other employees of the Federal Government stationed abroad, such as Foreign Service employees.

All of these individuals are serving their country as public employees and circumstance merely will place them at a duty station outside of the United States on April 1, 1990, the day of the census.

Accordingly, the legislation being introduced today by Mrs. MORELLA and I sets the criteria for assigning an individual stationed abroad to a State for purposes of apportionment only.

Members of the Armed Forces, civilian employees of the Government, and their dependents living overseas with them, will be assigned to the State where they maintained their last place of general abode for at least 6 consecutive months.

The Census Bureau, for the first time in 1990, will be administering the census on overseas military installations of the United States and can obtain the necessary information from a question on the census forms.

I believe the criteria we have chosen will be the most objective, will avoid numerous problems which could arise with other criteria, and will be fairest to all States.

In addition, our legislation includes employees of Federal agencies other than the Department of Defense, and their dependents, who are stationed abroad during the census.

I should clarify that my legislation does not include citizens of the United States who are living abroad at census time of their own volition and are not employed by the Government. It seems obvious that any attempt to locate and count persons voluntarily living outside of the United States would be almost fruitless. Persons temporarily abroad on census day are counted at their usual residence in the United States.

Mr. Speaker, apportionment of the House of Representatives, as required by the Constitu-

tion, is based on the number of persons in the United States. It seems unfair to exclude persons who are not in the United States on census day solely by virtue of the fact that they have chosen to serve their government and country, and their government needs them overseas at that particular time.

The Subcommittee on Census and Population intends to act on this measure in the near future. I urge my colleagues to join me in supporting this worthwhile legislation.

GROUNDBREAKING CEREMONY AT ROSEDALE BAPTIST CHURCH

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mrs. BENTLEY. Mr. Speaker, below are remarks I made at a groundbreaking ceremony at the Rosedale Baptist Church in honor of the new parsonage which is to be built. These wonderful people worked very hard to raise the funds to build the parsonage, and I applaud their diligence and success. It is with great respect and honor for the church's pastor and congregation that I place these words here:

REMARKS BY HON. HELEN DELICH BENTLEY

First of all, let me tell you what a terrific pleasure it is to be here today at this groundbreaking ceremony—I am honored that you invited me. Indeed is a day of celebration; the fact that you have raised the funds to construct the parsonage that will stand on this spot very soon means the beginning of a new era for the Rosedale Baptist Church.

I have been to many different church events over the past few years. Some of these churches were older, while others were bigger. Yet this particular ceremony is much more special in many different ways. It is special because you have grown and accomplished so much in the past twenty-four years. All of you—working together—have built this church up from an idea to a living reality. This ceremony is so special is because many of you have been able to actually watch the church make the progress it has made—like a mother watching a child grow into an adult. Many church ceremonies are celebrations of history, yet few can truly be said to be history! Long into the future your children and grandchildren will look at this parsonage and remember you and all the hard work that went into raising the funds for the building.

Use this occasion to think about all the wonderful things your church has been able to accomplish over the past two-and-a-half decades. Your regular attendance has gone as high as 275 on some occasions. You have established a wonderful system by which people who could not make it to services on their own are picked up by buses—thereby bringing into the fold many people who would be left out. In addition, your programs to aid the poor, the 40 mission programs, and the important youth group you have established are all helpful and important parts of your community. For such a young church, you have done so much! I urge you to be proud of this, for indeed you should be.

We in Congress like to go to Washington and tell our colleagues about the wonderful people and organizations in our district. Please be reassured that I intend to enter the name of the Rosedale Baptist Church in the CONGRESSIONAL RECORD, because like you should be proud of yourselves, I am proud of you, too.

I encourage all of you to reflect upon the accomplishments of the past, the promise of the present, and the possibilities of the future. Yet try not to forget the joy of this moment, because it will never quite be duplicated again.

Pastor Polanowski and all the rest of you great people, best wishes for the future and congratulations for a job well done.

DOVER ALDERMAN RECEIVES NATIONAL RECOGNITION

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. GALLO. Mr. Speaker, I am honored today to bring to the attention of my colleagues in the House an individual who exemplifies the democratic values that we are elected to preserve, protect and defend as representatives of the people of the United States.

The cornerstone of our elective system of government can be found where those who are elected are closest to the people—in municipal governments throughout the country.

As an alderman in Dover, NJ, in the county of Morris, Mr. Roberto Sanchez has distinguished himself as a leader, as well as an able representative of the people of Dover. In addition, Mr. Sanchez is representative of his community's hopes for the future.

That commitment to policies designed to build a solid future for all Americans has earned Mr. Sanchez the opportunity to bring his positive message to our Nation's Capital, where he will address a national forum of leaders who share his commitment to community action and involvement in the process of governing.

I have long felt that the key to political involvement within any community is the ability to enter the mainstream of the political debate that is constantly evolving through the give and take of parties affected by the outcome.

The National Puerto Rican Coalition has recognized this basic need for a broad-based community activism by recognizing the talents and achievements exemplified by Mr. Sanchez, who has accepted the coalition's invitation to speak to its eighth annual conference on June 17.

The conference theme, "Access to the Future," is an important topic at a time in our history when we have experienced low voter turnouts in all recent elections and a rising sense of apathy within our political process.

We must promote partnerships for progress, and partnerships begin with participation in the decisionmaking process.

I commend to my colleagues' attention the fine example being set by Mr. Roberto Sanchez and others who understand the importance of broad-based participation in the shaping of Government policies.

We need more men and women like Mr. Roberto Sanchez who are committed to making government work for all the people of the United States.

TRIBUTE TO WILLIAM J. CRONIN

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. DELLUMS. Mr. Speaker, I would like to take this opportunity to pay tribute to William J. Cronin, who, on June 3, 1988, will retire from the U.S. Army Corps of Engineers, after 40 years of service. My colleagues and I know "Bill" as the principal Army witness who testifies before the Armed Services and other committees with respect to all real estate matters pertaining to the Department of the Army. For 17 years, we have relied on Bill for his expertise in presenting the Army's position on these matters.

Bill is a product of an excellent Jesuit education, having graduated from Gonzaga High School, Georgetown University, and Georgetown University Law School, all here in the Nation's Capital. He returned to school after having served in the U.S. Army Air Corps in Europe during World War II.

Shortly after graduating from law school, Bill began working for the corps at the old Washington District. He soon moved to headquarters, where he advanced through a series of increasingly responsible jobs to his present position of Chief, Legislative Services Office, Directorate of Real Estate. This record of achievement and broad-based experience enabled us to rely on his knowledge during the numerous occasions he has testified before us since 1971. Members and staff recognized that his credibility made him a successful advocate for the Army. His years of experience and superior judgment will be greatly missed by the Department and the Congress.

It is a privilege for me to join with his friends at the Corps of Engineers in congratulating Bill for his 40 years of distinguished service and in wishing him and his wife, Mary, the best that life has to offer.

AMERICAN POLITICAL SCIENCE ASSOCIATION CELEBRATES 35TH ANNIVERSARY OF ITS CONGRESSIONAL FELLOWSHIP PROGRAM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. HAMILTON. Mr. Speaker, I would like to congratulate the American Political Science Association on the 35th anniversary of its Congressional Fellowship Program.

This outstanding program provides opportunities for highly qualified professionals from Government agencies, the academic world and journalism to spend several months working in House and Senate offices. Each year 45 to 50 participants are selected through a national competition, and they are all very interested in learning how the Congress works.

They find positions in Members' offices or with committees that allow them to gain first-hand experience in areas that interest them. They bring expertise and enthusiasm to their assignments.

I have had the good fortune to benefit from the work of many fellows during my tenure in Congress. They have worked on my personal staff and with my subcommittees on varied tasks. We always try to work out assignments that are both relevant to my concerns and of interest to the individual fellow. This year, one of my fellows had a particular interest in Germany, and he helped me launch the new United States Congressional Study Group on Germany. Another fellow had background in Soviet affairs, and she has worked with the Subcommittee on Europe and the Middle East, which I chair, in organizing a series of hearings on change in the Soviet Union and its implications for United States policy. Over the years, fellows in my office have worked on many other issues of concern to my constituents.

The program offers a practical education in how the legislative branch works. It serves not only the interests of the individual participants but of Congress, as well. The Federal Government benefits because its employees take back to their agencies working knowledge of how things operate on the Hill, thereby improving understanding of the Congress and communication between the two branches of Government. Academia and the media are enriched by the work of scholars and journalists who add a real-world dimension to their teaching and writing about the Government. APSA alumni give enthusiastic reports of the significance of the experience in their professional lives. Some past participants—including a number of my illustrious colleagues—have even gone on to elective office themselves.

There have been over 1,250 APSA congressional fellows. They hold responsible posts throughout the Government, in the media, in universities, nonprofit organizations and businesses in this country and abroad. They are a valuable national resource.

I commend the American Political Science Association for its excellent stewardship of this outstanding program, and I look forward to working with many more APSA fellows in the future.

SALUTING AN OUTSTANDING LAW ENFORCEMENT OFFICER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. SKELTON. Mr. Speaker, 33 years is a remarkable length of time to serve in any profession, but to dedicate more than three decades of service as a law enforcement officer is truly extraordinary. Col. Howard J. Hoffman, who is retiring in August from his position as superintendent of the Missouri State Highway Patrol, has been such an exceptional man.

A native of Wellington, MO, Colonel Hoffman was first appointed to the Missouri Highway patrol in 1955. During the following years, he was promoted through the ranks of the patrol and served citizens throughout the Show-Me-State. On July 29, 1982, the Governor of the statewide patrol, a position which he has held since that date.

Colonel Hoffman is highly respected by both his colleagues and people throughout Missouri. In fact, in 1976, he was named Outstanding Law Enforcement Office of the Year by American Legion Post 69. Further evidence of the deep respect this Missourian has earned is the renaming of the annual Missouri Police Chiefs Scholarship Fund as the Howard J. Hoffman Scholarship Fund.

In addition to his on-the-job accomplishments, it is also important to mention Colonel Hoffman's great interest in the Missouri Special Olympics. For the past 3 years, he has served as chairman of the Law Enforcement Run, which has garnered thousands of dollars to help defray expenses of the Summer Special Olympic Games.

I join with Colonel Hoffman's many colleagues and friends in thanking him for years of service and wishing him well in his retirement.

CONGRESSMAN FLORIO HARD AT WORK ON THE ENVIRONMENT

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. GUARINI. Mr. Speaker, the dilemma we face in our Nation in the garbage disposal industry is nothing short of a crisis. Following is an article, published by the Jersey Journal newspaper, which provides a brief glimpse into the nature of the problem in New Jersey, and the monumental undertaking of my friend, Congressman JAMES FLORIO. The waste crisis is felt particularly hard in our urban areas, where the amount of space continues to dwindle and the waste being created continues to rise. More than a hundred of the toxic waste sites which comprise Superfund's national priority list are scattered throughout the State of New Jersey. That fact places added pressure on lawmakers to find solutions to a problem that seemingly will never go away.

As noted in the editorial, which I would like to share with my colleagues in the U.S. House of Representatives, Congressman FLORIO has developed two meaningful approaches. H.R. 2517 and H.R. 2787, both of which I have the pleasure of cosponsoring, were recently introduced in the 100th Congress. These important pieces of legislation, which require the Government to set standards for incineration, air pollution and ash, have generated much support. They are just another example of JIM's true commitment to protecting and cleaning up our Nation's precious environment. As the bills work their way through the legislative process, even greater attention will be drawn to a growing problem.

The material follows:

NEW STANDARD FOR EMISSIONS

Incineration plants that burn solid waste and produce energy form an important part of the plans of Hudson County as well as the entire state and much of the nation, for getting rid of garbage.

In fact, with each of the 21 counties in New Jersey working on its own garbage disposal options, there have been estimates that New Jersey could wind up with as many as 21 energy-producing incineration plants.

These plants, called resource recovery plants, should be combined with an active recycling program rather than relied upon alone. But together with recycling they can help the localities deal with a shortage of dump sites that is getting more severe.

And despite the worthiness of the concept, resource recovery plants have their risks. They produce some emissions into the air, and they also produce a residue that has to be disposed of properly.

They must be designed according to strict standards and run with regard for proper operating procedures to make sure the public is safe.

With resource recovery facilities in the works in Kearny, to serve Hudson; in southern Bergen County; and in nearby Newark, to serve Essex County, those designs and procedures are of vital local interest.

And the state Department of Environmental Protection is in an awkward position on this issue—a position that from a practical though not legal point of view looks like conflict of interest.

It has charge of spearheading the effort to find alternatives to the state's garbage dumps, so it has an interest in getting these incinerating recycling plants into action.

But it also is supposed to enforce regulations regarding air and hazardous waste.

Interestingly, it told the Hudson Regional Health Commission that the commission was not supposed to take part in the permit process for Hudson's new resource recovery facility, although that commission does review other incineration permits in the county.

With the state in an awkward position, it's important for the federal government to intervene.

Rep. James Florio has proposed some worthwhile legislation that would require the federal government to set clear standards in this area.

That would make a lot of sense. Smoke from incineration doesn't stop at a state line, and the nature of the residue from the resource recovery process demands that realistic standards for its disposal be set and vigorously enforced.

New standards like those Florio is seeking could help make neighbors of some of the new resource recovery plants have more confidence in the facilities—and quite possibly breathe easier even when the plants are in operation.

TRIBUTE TO THOMAS J. LIPTON, INC.

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. TORRICELLI. Mr. Speaker, I would like to congratulate Thomas J. Lipton, Inc., for being named a winner of a 1988 Gold Leaf Certificate of Merit by Family Circle magazine and Food Marketing Institute.

Thomas J. Lipton, Inc., Englewood Cliffs, NJ, was honored at a luncheon held during the annual Food Marketing Institute convention in Chicago.

Lipton received recognition for the Lipton Nutrition Corner series begun in 1982 as a source of information for consumers and the media. Cholesterol and fats "getting to the heart of the matter" is the most recent publication in the series distributed during 1987.

This level of private sector support for improving the health and nutritional welfare of the American people is to be commended.

I want also to commend Family Circle magazine and the Food Marketing Institute for sponsoring a program to encourage greater food industry participation in educating the American people on the importance of good nutrition to health.

PROF. RAYMOND M. HERBENICK SEES PARALLELS TO KAUTSKY-LENIN DEBATES OF 1918 IN CURRENT SOVIET DEBATE ON GORBACHEV'S REFORMS

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. HALL of Ohio. Mr. Speaker, my constituent Raymond M. Herbenick, a professor of philosophy and an advisor to the Center for International Studies at the University of Dayton, sees parallels between the Kautsky-Lenin debates of 1918 and the current debate in the Soviet Union over the reforms being promoted by Mikhail Gorbachev.

Professor Herbenick made an interesting presentation of his thesis in this regard in an opinion-editorial which appeared in the Dayton Daily News on May 10, 1988. In view of the timeliness of Professor Herbenick's thought-provoking observations, I commend his article to the attention of my colleagues:

[From the Dayton Daily News, May 10, 1988]

GHOSTS OF A MARXIST PAST MAY COME TO HAUNT GORBACHEV

(By Raymond M. Herbenick)

Mikhail Gorbachev's program of openness, restructuring, and democratization is old vodka in a new flask.

His ideas are similar to those of Karl Kautsky (1854-1938), the foremost authority on Marx prior to World War I. But now, as then, such ideas carry great risk.

Kautsky predicted a dismal life for Russian society under the dictatorial method of government and opted for a democratic form of government. But Lenin villified Kautsky as a "renegade" and branded Kautsky's democratic reform package as "opportunism." And Trotsky slandered Kautsky as a "betrayer of revolutionary Marxism."

Yet, Kautsky's predictions have been remarkably accurate. And Gorbachev must now face the prospect of de-Leninizing Soviet society along with de-Stalinization. He must choose sides in the great Kautsky-Lenin debates of 1918.

These long-forgotten debates between a democratic-minded Kautsky and the dictatorially inclined Russian revolutionist may well help us gauge the genuine character of Gorbachev's revolution. To understand Kautsky is to understand the plight of Gorbachev and the forgotten ghost of a Marxist past.

Born of Czech parents, Karl Kautsky studied science and history. He edited an influential newspaper of the German Social Democracy Party. For three decades prior to World War I, he was respected internationally as the leading interpreter of Marx's thought. He knew both Marx and Engels personally. And upon Engels' death, Kautsky published Marx's economic manuscripts in the fourth volume of Capital.

In 1918, Kautsky published The Dictatorship of the Proletariat. He defended the method of democracy over the method of dictatorship. Lenin fired back with his own polemic in defense of dictatorship in The Proletarian Revolution and the Renegade Kautsky.

In 1919, Kautsky published Terrorism and Communism. He attacked the principle of violence. But this time Trotsky denounced him one year later in Terrorism and Communism, A Reply to Karl Kautsky.

Kautsky's plea for a faithful interpretation of Marx's "dictatorship of the proletariat" had been discarded.

Kautsky understood this phrase used in Marx's letter of May 1875 to mean conditions of life with universal suffrage, rights of assembly and association, rights to a free press, and a parliament democratically elected from competing political parties. Lenin took it to mean a political form of government by a select few members of one exclusive political party under the method of dictatorship.

Kautsky underscored the importance of democracy for the successful completion of the Russian Revolution of 1917. Democracy without socialism was certainly possible. But socialism without democracy was not. For proper "ripening," Russian society required democracy—not dictatorship.

Foreshadowing Gorbachev's reforms, Kautsky wrote that "the more a State is capitalistic on the one side and democratic on the other, the nearer it is to Socialism."

A developed capitalist industry meant increasing productive power, greater wealth, more socially organized labor, and increased employment. A democratic state meant more educated persons and a citizenry ready for self-government. The fusion of developed capitalist industry and an educated democratic state had the best chance of sustaining Russian gains. Kautsky predicted ". . . the more a country is progressive in capitalism and democracy, the greater is the prospect . . . of not merely gaining a passing victory, but also of maintaining it."

Kautsky felt so confident in the democratic path for the Russian people that he ventured several Social Darwinian predictions in case the dictatorial path of Lenin were followed.

First, there would be acceleration of industrial development beyond the country's capacity to generate capital under a centralized bureaucracy. This in turn would result in both production and distribution problems.

Second, there would be acceleration of educational development of the citizenry by selective targeting of human capital under a centralized bureaucracy. This in turn would lead to an underinformed and an immature citizenry.

Third, there would be acceleration of bureaucratic and military growth under a centralized government. This in turn would stifle industrial progress and retard standards of living. A "fetter on productive forces" would make Russia unable to compete in the world at large.

If followed, Lenin's method of dictatorship would furnish the "best object lesson" in the event it could not sustain itself. Kautsky predicted it would lead to neither sufficient freedom nor sufficient bread for the Russian people.

Furthermore, if the dictatorship of a minority were to begin to grant democratic freedoms, it would undermine its own power. And if it were to restrain freedoms already granted, it would retard personal, social, and economic growth. Hence, the need for self-determination should be recognized along with the need for food, according to Kautsky.

As Soviet rulers address full civil rights in an apparent transition from less self-government to more self-government, an amended Soviet Constitution that matches both the rhetoric and reality of democratic reform bears scrutiny.

Could it be that Soviet leaders finally agree with Kautsky's 1918 analysis that "not in dictatorship, but in democracy, lies the future of the Russian proletariat?"

Could it be that current Soviet experiments with openness, restructuring, and democratization finally square with Kautsky's 1918 forecast that "the essential achievements of the Revolution will be saved, if the dictatorship is opportunely replaced by democracy?"

If so, we should not be surprised to find a resurgence of interest in the heated debates of Kautsky and Lenin on the path to take or not take in the Soviet Revolution of the 1980s. Gorbachev supporters and detractors understand the impending Soviet constitutional crisis in the making. Both sides can appeal to the Kautsky-Lenin debates for guidance. In either case, some form of "ghostbusting" is in store. But which ghost of a Marxist past haunts Gorbachev?

TRIBUTE TO THE "SHOP RICHMOND HILL—FREE SAVINGS BOND" PROGRAM

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. ACKERMAN. Mr. Speaker, every day seems to bring news of higher budget deficits, worsening trade balance figures, and more local merchants being forced out of business by larger competitors. You can drive through many American cities and towns and see the boarded-up storefronts. Once vibrant local shops now stand empty and dark, testimonies to dramatic and cruel changes in our economy.

An organization in my district, in the community of Richmond Hill, NY, refused to surrender to the competition, and through the ingenuity of its members has revitalized the Richmond Hill economy, while helping the United States lower its budget deficit.

A few years ago, the members of the Richmond Hill Development Corp. realized that their businesses were being threatened by the competition posed by two nearby shopping malls. Instead of giving up, the merchants of Richmond Hill fought back.

They started the "Shop Richmond Hill—Free Savings Bond" program. Under this unique enterprise customers are given U.S. savings bonds as incentive to shop locally in

Richmond Hill. This program has been a huge success.

Every savings bond given away helps us in the fight to lower our Federal budget deficit. The success of the program has caught the attention of the U.S. Treasury.

On June 3, 1988, U.S. Treasurer Katherine Ortega will join me in Richmond Hill to pay tribute to the success of the "Shop Richmond Hill-Free Savings Bond" program. The U.S. Treasury celebrates its bicentennial this year, and I am thrilled that Ms. Ortega is coming to Richmond Hill to recognize this outstanding program.

Mr. Speaker, so that my colleagues may share the "Shop Richmond Hill—Free Savings Bond" secret of success with their constituents, I will explain how the program works.

Participating merchants give consumers special coupons for every $5 spent at their store. After accumulating coupons representing $1,500 in purchases, consumers can exchange them for a free $50 U.S. savings bond at local banks. The average family accumulates three to five savings bonds a year.

Since the program was started in 1983, over 700 savings bonds have been issued.

Plumbers, butchers, bakeries, travel agencies, shoe stores, pharmacies, and hardware stores are but a few of the businesses participating in this outstanding program.

Mr. Speaker, I congratulate the many business owners who have participated in this enterprise. Special recognition and thanks go to Charles Cassella, owner of Starbright Rugs, and originator of the savings bond program, Brendan Byrne, former president of the Richmond Hill Development Corp., Louis Gazzale, current president of the Richmond Hill Development Corp., and Loraine D. Paolino, project manager of the Richmond Hill Development Corp., for their outstanding leadership. Under their guidance, Richmond Hill remains a vibrant community and shopping area.

I ask my colleagues to join me in wishing the merchants and people of Richmond Hill many more years of great success. Their dedication and commitment to free enterprise is an excellent example for all communities.

SHARING THE DEFENSE BURDEN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. MILLER of California. Mr. Speaker, the time has come for a serious reexamination of the financing of our defense burden with our allies. There is little question that military alliances are sound concepts, and that the United States gains greatly by our mutual defense strategy.

But aspects of that arrangement deserve serious scrutiny, especially in light of budget constraints and also because of geopolitical developments since the 1950's, when the current arrangement was devised.

The essential framework of our overseas military organization is fundamentally an outgrowth of World War II. It is predicated on a vigorous United States presence in Europe and Japan, and it has always been financed by America, as was essential in those early postwar years when most of the rest of the world lay in ruins.

But the world is no longer in ruins, Mr. Speaker, and our burden of the defense obligation has actually grown greater; while our deficit and trade imbalances have worsened, many other nations which are not sharing our economic plight continue to allocate a fraction of their gross national product [GNP] to mutual defense obligations.

As a recent article in Rolling Stone by the respected journalist William Greider notes, the United States spends 6.9 percent of its GNP on defense, well over half targeted to NATO. Meanwhile, NATO countries spend just 3.5 percent of their GNP on the alliance.

The United States spends $1,002 for every citizen on defense each year—a total of about $800 million each day; by comparison, Germany spends $359, Italy $187, and Japan $103.

The massive military buildup of the Reagan era, supposedly intended to defend our allies and us from Soviet aggressiveness, was apparently not given very high priority by our endangered allies. In 1980, they spent 81 percent of what we did on the military; today, they spend less than half.

Our allies are investing the defense money we are saving them wisely. They are spending 23 percent more for health, and their reduced infant mortality numbers—most much lower than our own—show it.

There is no need for ally bashing, harsh rhetoric or talk of bring the boys home from overseas. But by the same tokeen, it is irresponsible to defer reconsideration of the appropriate level of cost sharing by the United States and our allies for mutual defense purposes. The following article provides us a good place to begin that debate.

[From Rolling Stone, June 16, 1988]

WHY CAN'T OUR ALLIES DEFEND THEMSELVES?

(By Wiliam Greider)

Aside from denouncing drug smugglers, the most popular new theme of this year's presidential campaign is bashing our allies—the feckless Germans and Japanese, even the Danes, Norwegians and Spanish. Every candidate, including the squishy vice-president, has demanded or at least suggested that our NATO allies and Japan pay for a larger share of our mutual defense.

"The Japanese case is scandalous," says one authority in the field. "The political and psychological excuses that Japan has sold a succession of American administrations, including this one, for not sharing the defense burden equitably are little more than a gloss on a policy of chronic freeloading.

"It is galling to be lectured by those whom we defend about the need to control our budget deficit. Indeed, if we were to reduce our defense effort to, say, the level of Germany, we could balance the American budget this year."

This is the historic contradiction facing the American empire: the United States is financing the defense of its economic competitors, assuming costs and risks that they refuse to accept. Meanwhile, they are trafficking with the "enemy," even selling the reds high-tech hardware for modern weapons systems.

The long-term consequences for America are clearly visible: the economy gets steadily weaker, deeper in debt and less competitive while our supposed allies ride the advantage by investing their capital in productive enterprises. The allies, it seems, do not take the cold-war "threat" as seriously as American political leaders do. For the Europeans and the Japanese, it's a good deal, and they have no incentive to change. For Americans, it's not such a good deal. As Representative Patricia Schroeder first observed long ago. "We have all the burdens of empire and none of the benefits.

Some of the harshest observations about our allies, such as those quoted above, do not come from Pat Schroeder, Jesse Jackson or dovish left-wing wimps but from Mr. Hawk himself—Richard Perle. Recently retired as assistant secretary of defense for international security, Perle was the bristling intellect of Reagan's Pentagon. No one believes more fervently in the cold-war struggle. No one plotted more skillfully for the Reagan arms buildup. Now Perle acknowledges that when he was in government, he spent a lot of energy hiding the freeloading of our allies.

In congressional hearings, Schroeder pinned Perle down on how the Pentagon covered up for the allies. Congress has ordered the military to make an annual assessment of defense-burden sharing among the allies, but Perle admitted that the numbers have been cooked. The reports, he said, are "an exercise in thinking of ways to put the best possible gloss on some pretty dismal figures. I know it because I superintended it—and looked for statistics to make the allies look good."

Perle's ex post facto cador is a hopeful development. Not because he wants to bring U.S. troops home from Europe (he doesn't), or because he now admits the Soviet threat has been exaggerated by hawks like himself (he admits no such thing), but because when people like Richard Perle begin to come clean on this issue, it indicates that opinion leaders are finally acknowledging the absurdities of the cold-war strategy they have pursued for twenty years.

Uncle Sucker may be slowly waking up. Dare we hope that the next president will actually do something, like bring home many of the 350,000 troops still stationed in Europe forty years after World War II? Maybe. But only maybe. Campaign rhetoric is cheap. Resolving the cold-war contradictions will require great courage.

Pat Schroeder decided for varius reasons not to run for president this year; she is laboring instead to influence the next president on this central question. As chairwoman of the special panel of the House Armed Services Committee on defense-burden sharing, the Colorado Democrat has been holding hearings, collecting hard evidence on the inequities, hoping to focus the debate that is sure to face the next administration. For years, Schroeder has been one of the lonely voices on the Armed Services Committee complaining about the bloated defense commitments of the United States and the free ride Europe and Japan have enjoyed. Now at last others may be ready to listen.

Instead of stacking the deck with like-minded witnesses, as congressional inquiries usually do, Schroeder is attempting to hear from both hawks and doves. The final report will have more impact when it reveals that a lot of stalwart cold warriors, like Perle, are fed up, too.

"The basic fact is that we keep grabbing the check," Schroeder said, and the figures back her up. About $170 billion of the Pentagon's 1988 budget of $285 billion goes to NATO. The United States devotes 6.9 percent of its gross national product to defense; the NATO allies devote only 3.5 percent. The disparity between the spending of the United States and Japan is much worse, because Japan spends only about 1 percent on defense. Each American citizen has $1002 spent on his or her behalf on the military. For each German, only $359 is spent. For each Italian, only $187. For each Japanese, only $103.

In fact, the imbalance is probably even worse. Schroeder has found evidence that the allies pump up their defense costs with dubious accounting. The Japanese are the most outrageous offenders, counting as defense spending the rent and taxes theoretically lost on the real estate for American bases. They even count environmental damage caused by military installations. "Can you imagine if we put that in our estimate?" Schroeder asked. "God knows what percentage of our GNP we'd have in defense spending."

Even more infuriating is how the allies squeeze extra dollars out of the U.S. military presence—demanding foreign-aid bribes in exchange for allowing American bases on their soil. "The base agreements are outrageous," Schroeder said. "We've had base fights with Spain, Portugal, Greece, Turkey—all in NATO—and they each put the gun to our head and say, 'Want to keep the bases here? You've got to increase foreign aid by x percentage.' Turkey even gets to renegotiate those base rights every year. I don't know what genius negotiated that deal, but every year we give Turkey the option to shoot at our feet and say, 'Tap-dance, Uncle Sam!' "

A new NATO charade has developed during the Reagan years: defense spending posing as foreign aid. "This is bad stuff," Schroeder said. "Our foreign-aid budget has become a defense supplemental, because it's not geared to the economic needs of these countries—it's geared to the basing needs of the military."

When the poorer nations on NATO's southern flank shake down Uncle Sam for extra dollars, the wealthier NATO countries in northern Europe look the other way—as though these arguments have nothing to do with their own security. Germany, for instance, could increase developmental aid for Turkey or the others as an indirect form of burden sharing. Japan could do the same. The idea of rearming Japan still frightens other Asian nations, but Japan could easily pick up the tab, for rebuilding the ruined Philippine economy—thus easing the burden on the United States. Instead, financing of allied bases is viewed as an American problem.

The allies' indifference is all the more clear since Spain decided to kick out the U.S. 401st Tactical Air Wing—an element of NATO defenses on the southern flank. No other NATO nation has been willing to take the 401st in. "Everywhere we've gone," Schroeder said, "we point out that we have seventy-two F-16s looking for a home. We kept saying, 'Which one of you is going to take these planes? If they weren't really needed . . . why didn't you tell us? We could have brought them home a long time ago.' Everybody thinks you're the skunk at the garden party by asking that question. They just hem and haw and whine."

The economic consequences of America's generosity will also be part of the panel's report. For instance, while we're paying for troops and armaments, the allies are spending twenty-three percent more than we do on health. America's infant mortality rate is higher than that of eleven of the sixteen NATO nations—that is, worse than everyone's except those of Greece, Italy, Luxemboug, Portugal and Turkey. The same skewed priorities apply to education.

Furthermore, while we stand up to the Soviets, our allies are busy selling them technology and, more important, lending them billions in joint commercial ventures. Richard Perle is rankled by this, too. "Japan has emerged as the largest single source of Soviet-bloc credits," Perle complained. "The Germans, who cannot get their defense budget up to half of ours, are eager to expand their financial relationship with the Soviets."

The long-term disadvantage for America is most obvious in the resources devoted to civilian research and development—the wellspring for future economic strength. The United States spends $17 billion on civilian development—and $47 billion on military R&D. Among our allies, the priorities are reversed. They spend two-thirds of their research capital on technology and products that will sell in global civilian markets. They are investing in ideas and people while we are investing in weapons.

And thanks to Reagan's defense buildup, these outrages are getting worse, not better. American politicians of both parties have been pleading with Europe and Japan for nearly twenty years to assume a larger share, but despite a lot of diplomatic chatter, the opposite has occurred. In 1980 the allies spent eighty-one percent of what America spent on the military. By 1984 they were spending only forty-seven percent. The allies did increase their defense budgets—but they couldn't keep up with the Gipper.

Nor do they want to keep up. The allies clearly are not as scared of the Soviets as American's cold warriors are. Otherwise, they would be doing more to defend themselves. After forty years of experience, they are confident that America will do it for them.

"I honestly think the bottom line is that the allies have a wonderful deal—the best of both worlds," Schroeder said. "They can say to their own people, 'We have a different threat assessment of the Soviet Union than the Americans do. We think the Americans sleep with a night light. We think they're a little cracked. They overreact. We're going to trade with the Soviet Union and open doors. But on the other hand, if the Americans turn out to be right about the Soviets, we have an insurance policy that we don't have to pay for—the American troops are here.' "

How can the United States get out of this without weakening national security, without destabilizing our alliances? While Perle agrees that America's allies are freeloading, he is against threatening them with American troop withdrawals. "I don't think Europe will respond," he said. "If Europeans don't respond, then we are worse off than we were before."

But Perle's reasoning begs the question: if European allies would be unwilling to fill the hole left by American withdrawals, doesn't that mean they simply do not take the scenarios of Soviet attack as seriously as we do? Perle concedes this.

Yet Perle and other hawks would continue to do for them what they won't do for themselves. Why? Perle thinks that the United States should push harder for increased defense spending by the allies but that ultimately we must take care of the allies. "[Truman's secretary of state] Dean Acheson once compared it to dealing with unruly grandchildren," Perle explained. "You want your grandchildren to behave, to be responsible, but you don't want to destroy them."

His metaphor of "unruly grandchildren" reveals more about the mind-set of the American government than it does about the allies. For forty years the architects of American foreign policy have seen themselves as wise parents, presiding over irresponsible children, instructing them and correcting their errors. Imperial leadership is a heady role to play, and they do not wish to give it up.

"We have an empire, and it feeds our ego," Schroeder said. "When these other countries say to our political and military leaders that you are the world leader, these guys straighten their backs and say, 'That's right—we're Big Daddy. Climb on my lap, tell us what you need, and we'll take care of it.' "

The diplomacy and strategic planning of downsizing the far-flung American military presence would be difficult, but not the biggest problem. The big sticking point is not in Europe or Asia but right here in American politics. Anyone who looks at the trade statistics knows that the Japanese and the Europeans are not helpless children. This is not 1945. It's time for Big Daddy to face up to the new realities.

On a tour of European capitals, Schroeder was surprised at how many foreign experts see the question in these terms, too. "Many said to us, 'Look, you naive fools, the only way it's going to happen is when you guys just do it.' As long as they can get one more bite out of the apple, nobody is going to voluntarily say, 'We will pay more money, we will raise our taxes and cut our services.' "

The British dismantled their empire—too late to save their ruined economy—essentially by assigning defense responsibilities to various allies and former colonies. Schroeder thinks a bold President could do something similar—announcing to our allies that they are now "senior partners" in the alliance and awarding them new responsibilities for their own defense.

Trouble is, this sort of swift and sure solution would require a bold president, and the prospects are for a cautious one. If a president moves forcefully to correct the military balance sheet and restore our economy, the predictable voices will accuse him of "wimping out." The prestigious Eastern newspapers, The New York Times and The Washington Post, will label him an "isolationist." The military-industrial complex and the army brass and lots of other powerful interests will swing into action to block any substantial disarmament.

The easier route for the next president, the one more likely to be pursued, is to nibble around the edges of the issue, to plead earnestly for help from our allies, to try for minor defense adjustments—and to allow the economic deterioration to continue. The truth is that America can't afford its empire anymore, not without burying itself in debt. Eventually this will be painfully clear to everyone. The question is whether or not Uncle Sucker will wake up fast enough to avert the bitter downward spiral that engulfed Great Britain.

Schroeder is not optimistic. "Getting out of this requires discarding ego gratification," she said. "There is a question whether democracy can ever do that."

THE RETIREE BENEFITS BANKRUPTCY PROTECTION ACT, H.R. 2969

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. STOKES. Mr. Speaker, I rise in support of H.R. 2969, the Retiree Benefits Bankruptcy Protection Act. The issue addressed by this legislation is one which we have discussed extensively within this body.

On too many occasions our Nation's retired workers have had their benefits terminated without notice when companies have filed for bankruptcy. This legislation would eliminate this harsh practice and unconscionable occurrence by prohibiting companies from unilaterally terminating retiree insurance benefits upon filing for bankruptcy.

This is an issue, Mr. Speaker, which hits home for me. Just 2 years ago, on July 17, 1986, the LTV Corp., the Nation's second largest domestic steel manufacturer, filed for protection from its creditors under chapter 11 of the U.S. Bankruptcy Code. On that same day, LTV notified its retirees that it had terminated their life and medical insurance coverage, leaving 78,500 senior citizens and their dependents without coverage for serious illness. In the Cleveland area, 30,000 retirees were affected by the termination of these benefits.

I think it is fair to say that most of us here today were shocked by such callous action. To say the least, this occurrence constituted a real tragedy. Many innocent citizens were "left high and dry," and had no avenue of protection from circumstances that were beyond their control. Deeply disturbed by these events, I introduced several pieces of legislation which were directed at protecting the rights of LTV and other retirees.

Most recently, I introduced H.R. 1186, the Retiree Benefits Security Act of 1987. In proposing this legislation, I have attempted to guarantee that our Nation's retirees, both union and nonunion, never again have to bear the onerous burden of having their health care benefits subjected to a unilateral modification or termination.

Shortly after the introduction of H.R. 1186, Representative PETER RODINO introduced similar legislation, H.R. 2969. Mr. RODINO's bill has made it through the legislative maze; and, it is an amended version of this bill which we consider today.

This legislation, H.R. 2969, represents a culmination of discussions conducted by industry officials and Members of Congress. With respect to future bankruptcies, the legislation, as amended, effectively protects the interests of all retirees, union and nonunion. Basically, the bill will prevent health benefits from either being modified or terminated without a court order, or an agreement between the representative agent and the employer. This bill is identical to the bill which passed the House last October, with one exception. A provision has been added clarifying the status of the so-called "pipeline" claims.

For those retirees, in the Claveland area, who have claims which have been stuck in the "pipeline," the legislation will require LTV to pay the pending claims if Blue Cross & Blue Shield Mutual of Ohio receives a court determination stating that Blue Cross does have a contractual right to reverse these claims. The inclusion of this provision in H.R. 2969, to a significant degree, is directly attributable to the efforts of Blue Cross of Ohio.

For over the past 18 months Blue Cross of Ohio has worked diligently with me in trying to put together legislation which will protect retiree health benefits in bankruptcy, especially as it relates to the LTV situation. John Burry, Jr. and Jim Patton, in particular, played a major role in getting this legislation passed, and I commend them for their efforts.

Mr. Speaker, to say the least, the passage of H.R. 2969 today would bring welcome and long overdue relief. The legislation provides an effective and permanent remedy which ensures that America's retirees, those persons who built this nation, and whose perspiration and hard work have made it possible for this nation to thrive and grow, need never again fear the loss of their benefits because of a chapter 11 filing.

For these reasons, Mr. Speaker, I encourage my colleagues to join me today in passing this very important piece of legislation.

THE CAREER OF HON. GEORGE NIXON BRIGGS: HATTER, CONGRESSMAN, GOVERNOR

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. CONTE. Mr. Speaker, the career of George Nixon Briggs stands as a reflection of the political and social atmosphere of antebellum America. A prominent member of the Whig Party of Massachusetts, Briggs was an adamant abolitionist, a pious evangelist, and a dedicated advocate of temperance and the educational reforms of Horace Mann.

Born in Adams in 1796, Briggs was the son of the village blacksmith. At the age of 13, at the urging of his father, he entered an apprenticeship in a hatter's shop in New York. He soon changed his vocation, however, securing a clerk's position in law offices in Adams and Lanesboro, where he studied for the bar. Prior to his legal training, Briggs had finished only 1 year of formal schooling and was self-conscious of the fact that he was not versed in Latin. Nonetheless, he passed the bar in 1818 and established a reputation as a confident and conscientious criminal lawyer. He soon entered a political career as registrar of deeds for Berkshire County in 1824.

Briggs advanced to the U.S. House of Representatives from western Massachusetts as a Whig in 1831, where he built his legislative agenda around opposition to further extensions of slavery in the western territories. His strongest and most memorable speech in the House was delivered against the admission of Arkansas. The new State's constitution forbid the abolition of slavery without the consent of Arkansas' slaveholders, a measure that Briggs found elitist and morally reprehensible. Briggs served six terms in the House, advancing to the chairmanship of the Committee on Post Offices and Post Roads and becoming a leading figure in his party with close ties to Henry Clay and John Quincy Adams.

In 1843 Briggs surrendered his seat in the House when he was drafted by the Massachusetts Whig Party to run for the Governor's seat. He won in an overwhelming landslide for his party, which captured a solid majority of seats in the State legislature. As in Congress, Briggs directed much of his attention to the fight against slavery. In his third inaugural address to the legislature in 1846, he voiced his opposition to the admission of Texas and the territories acquired during the Mexican War. He viewed the war with Mexico as an imperialist effort conducted in the interest of proslavery elements. Briggs also questioned the power of Congress to annex land in the name of the U.S. Government, an act which he considered a unilateral grasp for power. He saw both of these issues as a threat to the security of the American republic.

As Governor, Briggs personally opposed the Mexican War but nonetheless considered it his duty to submit to the authority of the Federal Government and execute his orders to draft troops. This dedication to the integrity of the Union influenced Briggs' efforts in helping to found the Massachusetts Republican Party and his support for the nomination of Abraham Lincoln for the Presidency in 1860.

Briggs served six terms as Governor of Massachusetts. With a resurgence of the power of the Democrats in 1851, however, Briggs' bid for a seventh consecutive term was defeated in the State legislature though he had won a plurality of the popular vote. In later years Briggs returned to private legal practice and was appointed to serve as a member of the State's constitutional convention and as a judge on the common pleas court. He died tragically in 1861 from an accidental gunshot wound suffered while hunting at home in the Berkshires.

Briggs was largely self-educated and when once asked where he had attended school, replied, "At the hatter's shop." Briggs' inability to attend school in his youth influenced his strong advocacy of the educational reforms of Horace Mann. As Governor, he supported Mann's efforts to develop a public school system throughout Massachusetts and personally assisted Mann in galvanizing local support for municipally funded schools in western Massachusetts. At a time when Mann placed Pittsfield in the "arctic wilderness" of educational advancement in the State, Briggs assisted him in traveling to town meetings throughout Berkshire County to urge the renovation of existing schoolhouses and the permanent hiring of teachers. Briggs' efforts to aid Mann helped to build the Massachusetts public school system into a model for American education.

Like many social activists of his day, Briggs received inspiration for his work from a deep religious faith. Influenced by the spread of fundamentalist evangelism in the United States between 1820 and 1850, Briggs was converted to the Baptist faith and pursued his Christian calling to preach the Gospel and temperance. Briggs became a leading figure among Baptists in America and from 1847 until his

death he was president of the Baptist Missionary Union. His opinions on the virtues of total abstinence from alcohol gained wide circulation and in 1856 Briggs was appointed president of the American Temperance Union.

As an abolitionist, political reformer, and pious evangelist, George Nixon Briggs was deeply concerned with and influenced by the issues of his day and his career was moulded by the social atmosphere of an maturing America in the years prior to the Civil War.

ONLY SOVIET PRACTICE, NOT COMMUNISM, OFFENDS DUKAKIS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. SOLOMON. Mr. Speaker, the American people are not stupid. By November, if not sooner, they will recognize that the majority party once again has chosen as its standard bearer a true-blue McGovernite.

Even though the McGovern philosophy has been rejected in four of the last five Presidential elections, even though the party of that philosophy has been outscored in the Electoral College by a ratio of 4 to 1 since 1968, that party persists. This time, their strategy is to present Governor Dukakis as the soul of moderation. While it is true that everyone looks moderate next to Jesse Jackson, it simply isn't so. The latest dent in Michael Dukakis' moderate armor comes to us courtesy of John Elvin's "Inside the Beltway" column in the Washington Times, which I submit for the RECORD.

According to Elvin, Dukakis told the BBC that we "need to recognize that communism is a failure." No quarrel there. But in the same sentence that Dukakis eased the fears that he would give the store away, he proved once again that he is indeed a New England Jimmy Carter. Communism is a failure, he explained, "at least the way it's been practiced in the Soviet Union."

What's that, Mr. Speaker? What is your candidate saying? Does he mean that communism could be made to work somewhere, say, in the United States? If Governor Dukakis knows of a country anywhere where communism has created a heaven on Earth, he should withhold this information no longer.

Mr. Speaker, this is a candidate who wouldn't really lose any sleep if a Soviet beachhead were firmly planted in this hemisphere, who thinks the Monroe Doctrine is a dead issue.

Even with a sympathetic media, the majority party won't be able to perpetuate this fraud any longer.

The information follows:

DUKAKIS' JUDGMENT

(By John Elvin)

We need "to recognize that communism is a failure, at least the way it's been practiced in the Soviet Union."—Mike Dukakis in a BBC interview.

THE KHMER ROUGE IN AFRICA

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. McHUGH. Mr. Speaker, reports reaching the United States over the course of the last several years have suggested that RENAMO, a guerrilla organization in Mozambique sponsored and supported by the Government of South Africa, has been engaged in a consistent pattern of gross violations of human rights.

Paid lobbyists for RENAMO in this country have consistently discounted those reports, suggesting that these abuses were actually carried out by the Government of Mozambique or by armed bandits affiliated with neither side. However, a recent report conducted for the Bureau of Refugee Programs of the Department of State has now provided compelling evidence that Mozambique has become a RENAMO killing field. Indeed, according to the report, conservative estimates are that as many as 100,000 civilians may have been murdered by RENAMO.

These victims may be the fortunate ones for the report goes on to document hundreds of cases of beatings, rape, looting, burning of villages, abductions and mutilations. While the report is also critical of government soldiers, it notes that reports of abuses by these soldiers are isolated and that there is a sustained trend toward overall improvement on the part of government soldiers.

While the report I have referred to is far too long to insert into the CONGRESSIONAL RECORD, I am including the summary of its findings. I urge every Member of the House to read this summary carefully for it suggests that RENAMO is the African equivalent of the Khmer Rouge, undeserving of support from civilized people.

MOZAMBICAN REFUGEE ACCOUNTS OF PRINCIPALLY CONFLICT-RELATED EXPERIENCE IN MOZAMBIQUE

SUMMARY OF FINDINGS

From 48 districts in northern, central and southern Mozambique, in 25 refugee camps in five countries separated by as many as 1,500 miles, nearly 200 Mozambican refugee accounts of their experiences are strikingly similar. If that sample is reasonably representative, their accounts, corroborated in large measure by independent experience of some religious and relief assistance workers, compel certain unavoidable findings.

First, the level of violence reported to be conducted by RENAMO against the civilian population of rural Mozambique is extraordinarily high. Roughly 170 refugees, each representing one family, who arrived in 1987/1988, collectively reported about 600 murders by RENAMO of unarmed civilians, in the absence of resistance or defense. (If the population estimates reported in the introduction to this report are correct, there are roughly 200,000-250,000 refugee and displaced families in Mozambique and in the neighboring countries, the majority of whom are conflict victims.) If the refugee reports are generally accurate and the sample reasonably representative, it is conservatively estimated that 100,000 civilians may have been murdered by RENAMO in this manner.

The same 170 refugees report many hundreds of cases of systematic forced portering, beatings, rape, looting, burning of villages, abductions and mutilations. These patterns of systematic abuse represent many hundreds, if not thousands, of individual instances reported by this small sample. Conservative projections based on this data would yield extremely high levels of abuse.

That the accounts are so strikingly similar by refugees who have fled from northern, central and southern Mozambique suggests that the violence is systematic and coordinated and not a series of spontaneous, isolated incidents by undisciplined combatants.

Second, the relationship between RENAMO and the civilian population, according to the refugee accounts, revolves almost exclusively around a harsh extraction of labor and food. If these reports are accurate, it appears that the only reciprocity provided by RENAMO for the efforts of the civilians is the possibility of remaining alive. There are virtually no reports of attempts to win the loyalty—or even the neutrality—of the villagers. The refugees report virtually no effort by RENAMO to explain to the civilians the purpose of the insurgency, its proposed program or its aspirations. If there is a significant sector of the population which is sympathetic to this organization, it was not reflected in the refugee accounts.

Third, there were serious complaints about abuses by some FRELIMO Government soldiers. But in both the murder and non-murder categories, only three to four percent of the complaints were attributed to FRELIMO soldiers. They tended to be isolated reports, often from areas of the country most remote from Maputo. It appeared that there is a sustained trend toward improvement overall.

Fourth, the refugees and most independent sources rejected the assertion that much of the violence in Mozambique is attributed to neither FRELIMO or RENAMO but instead to armed bandits affiliated with neither side. It appears from this field research that violence by "freelance bandits" does not account for more than occasional, isolated instances of the high level of reported violence.

TRIBUTE TO SAMUEL B. STERRETT, CHIEF JUDGE OF THE U.S. TAX COURT

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. PICKLE. Mr. Speaker, I rise in order to pay tribute to Chief Judge Samuel B. Sterrett, an outstanding public servant who has given his country 20 years of distinguished and dedicated service as a member of the U.S. Tax Court. Today Judge Sterrett will retire from the bench after a long and noteworthy career. His colleagues on the bench and the Congress will miss his experience and steady hand at the helm of the U.S. Tax Court.

Judge Sterrett has testified before the Ways and Means' Oversight Subcommittee, which I chair, on a number of occasions concerning the Tax Court and tax policy. His good judgment and insight on important tax issues have been instrumental to the subcommittee. Most

of all, I truly appreciate his candor and the forthright manner in which he addresses the very difficult issues facing the court and the Congress.

Under Judge Sterrett's stewardship, we have witnessed 18 months of progress in controlling the volume of cases before the Tax Court. In addition to reducing the number of cases, the court is also continuing to take steps to bring cases to trial in a timely manner and to promptly issue decisions. Judge Sterrett is to be highly commended for his efforts to make the Tax Court's case inventory manageable.

Mr. Speaker, I am sure you will agree that Samuel B. Sterrett is an outstanding public servant and leader. I rise to recognize Judge Sterrett for his exemplary service and devotion to our country and wish him every success as he embarks on a new challenge.

THE DAN DANIEL POST OFFICE BUILDING

HON. NORMAN SISISKY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. SISISKY. Mr. Speaker, it is my honor to report to the House that I am introducing today legislation to designate the U.S. Post Office Building in Danville, VA, as the "Dan Daniel Post Office Building," in memory of our dear friend and colleague, Dan Daniel, who so ably represented the Fifth District of Virginia for the past 19 years.

Dan was truly a Virginia gentleman. He was a Virginian, through and through, steeped in all of the highest principles of our Founding Fathers, a great believer in Jeffersonian democracy, and yes he was a gentle man. All of us who knew him knew that here was a man, from humble beginnings, who felt very deeply and very personally the importance of every issue which came before the House.

Dan was unapologetically a conservative, but he recognized that we cannot sweep problems under the rug. He was therefore always open to options or alternative approaches to deal with the problems when he could not in good conscience support the original proposal. Dan was faithful in his stewardship of the office, he was loyal to his friends, zealous of the Nation's good, and had a sense of duty which was hard to equal.

It is only fitting that the House take action to memorialize this wonderful gentleman from Virginia. This is why I am introducing this legislation which is cosponsored by all the members of the Virginia delegation. I feel, as I am certain my distinguished colleagues do, that by designating the Post Office Building in Danville, VA, as the "Dan Daniel Post Office Building," we can recognize and pay tribute to the lasting memory of Dan Daniel.

H.R. 4726

A bill to designate the United States Post Office Building located at 700 Main Street in Danville, Virginia, as the "Dan Daniel Post Office Building"

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

SECTION 1. DESIGNATION.

The United States Post Office Building located at 700 Main Street in Danville, Virginia, shall be known and designated as the "Dan Daniel Post Office Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any 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 "Dan Daniel Post Office Building".

TRIBUTE TO JAMES SCHLUETER

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. BROWN of California. Mr. Speaker, it is my great pleasure to rise today in honor of James Schlueter, who will retire on June 23 from Arlington High School in the Riverside Unified School District. In his 37-year career as an educator, Mr. Schlueter has touched the lives of several generations, teaching at the elementary, junior high, and high school levels.

Born on May 26, 1926, James Schlueter graduated from Riverside Community College in 1947. He received a bachelor of arts degree from the University of California at Santa Barbara in 1950. Mr. Schlueter returned to the 36th congressional district in 1952 to begin his teaching career and has taught both industrial arts and physical education, while also contributing to the work experience program on campus. An enthusiastic athlete, Mr. Schlueter has coached both tennis and basketball in his long career.

James Schlueter will surely be missed by his fellow teachers and his students, both past and present. It is my pleasure to share the outstanding accomplishments of Mr. Schlueter with my colleagues in the U.S. House of Representatives. I ask that they join me now in honoring him on this special occasion.

TRIBUTE TO NORMAN AND BARBARA SEIDEN

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. TORRICELLI. Mr. Speaker, it gives me great pleasure to pay tribute to my good friends Norman and Barbara Seiden, of Tenafly, NJ. the Seidens are being honored at a dinner on the occasion of the 40th anniversary of Israel Bonds.

Norm and Barbara have provided outstanding leadership in the Israel Bonds organization and many other important causes both in Bergen County and nationwide. Their work on behalf of Israel and the Jewish community has provided an example of dedication that has been followed by their own family and by a new generation of leaders in the community.

For Norm and Barbara Seiden, the question is never whether they can help, but how. It was the vision of Norm Seiden and his colleagues that made possible the new JCC on the Palisades, one of the finest institutions of its kind in the country. Norm continues to serve as chairman of the board of trustees of the JCC. He was instrumental in the formation of the United Jewish Community of Bergen County, where he now serves as vice president and member of the executive committee. Among Norm's many other involvements, I want to note his service on the National Campaign Cabinet of the Israel Bonds organization and on the boards of the American Technion Society and the Technion-Israel Institute of Technology. An engineer by training, Norm brings a special interest to Israel's scientific development.

Barbara Seiden's involvements on behalf of national and community organizations establish a record in her own right. Israel Bonds, the American Technion Society, Hadassah, the JCC on the Palisades, ORT, and the United Jewish Community of Bergen County are some of the causes she has championed. Of course, no tribute to Barbara would be complete without noting the courage she has demonstrated in the face of great adversity. Her example of strength and tenacity have in turn provided strength to her family and many friends.

To Norm and Barbara Seiden—and to their children, Steven and Sharon Seiden, Pearl and Jimmy Newman, Mark and Diane Seiden, and to their 10 grandchildren—I would like to extend my congratulations on this happy occasion and my best wishes for continued success in the years ahead.

A SPECIAL SALUTE TO MARY M. BETHUNE SCHOOL

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. STOKES. Mr. Speaker, President Reagan is in the Soviet Union for a historic summit meeting with General Secretary Gorbachev. This meeting provides the opportunity for dialog on issues of critical importance to both nations.

As Members of Congress, we have followed the development of the summit very closely, especially those of us concerned about the issue of human rights. Over the years, my colleagues and I have been outspoken on behalf of Soviet refuseniks—those denied the right to emigrate from the Soviet Union.

One case which has been of particular concern to me is that of Benjamin Charny, a Societ cancer patient who, for the past 17 years, has been denied the right to emigrate. Benjamin Charny's suffering is twofold—he suffers from a deteriorating disease and he suffers the emotional hardship of being separated from his family who reside in the West. He is denied a basic human right—the right to live where he chooses.

In conjunction with the summit and to call attention to Benjamin Charny's plight, a letter writing campaign to Secretary Gorbachev and President Reagan by schoolchildren throughout the Nation was organized. Over 7,000 schoolchildren participated. Last week in a historic moment, we witnessed their letters to

Secretary Gorbachev being received at the gate of the Soviet Embassy.

Mr. Speaker, I am proud to report that letters from fifth and sixth grade students at Mary M. Bethune School in Cleveland, OH, were included in this campaign. Their letters urged Secretary Gorbachev to consider the release of Benjamin Charny. One student wrote,

We are all people who have feelings for others. Please let Mr. Charny be with the people he loves and misses.

It was very touching to read the students' letters and note their concern for Benjamin Charny and their belief in human rights for all people.

I want to take this opportunity to thank the students for their involvement in this special project. Additionally, I want to commend the principal at Mary M. Bethune School, Mr. James W. Hobbs, and instructors, Mrs. Iola Foy and Mrs. Marian Gibbs for assisting the students in their letter writing campaign.

Mr. Speaker, my colleagues and I wish President Reagan and Secretary Gorbachev a successful summit meeting. We pledge our continued commitment to human rights and our continued efforts on behalf of Benjamin Charny.

MARY M. BETHUNE SCHOOL STUDENTS PARTICIPATING IN LETTER WRITING CAMPAIGN

Grade 5: Casey Bacon, Robert Rodgers, Christina Fears, Otis Driver, Jason Nadeau, Catrina Jones, Charles Peeples, Tyrone Bates, Stephaine Cunningham, Latisha Jones, James Coleman, La Chaunne Perry, Benjamin Butler, Aisha Jenkins, Heather Miller, Shaun Drake, and Christy Blackburn.

Grade 6: Omar S. King, Alicia Dowdin, Marisa A. Boddy, Meshelle Combs, Anthony Banks, Jason Bateman, Jahari Fleming, Michael Evans, Julionne S. Brown, Consuelo Thompson, Adrienne Appleton, Adrienne Alexander, Zicarr Young, Theron Toole, Damien Dix, Frank E. Dillingham, Jr., and Rahein Turner.

MARKING THE 50TH ANNIVERSARY OF THE GRANBY FIRE DEPARTMENT

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. CONTE. Mr. Speaker, voluntarism and self-reliance are two qualities that Americans have always cherished and considered to be part of a uniquely American personality. Furthermore, when these virtues have come together in the interest of our Nation and our communities, we have met with tremendous success. Our volunteer fire departments exemplify this success, and its is with great admiration that I honor the Granby Fire Department as it celebrates the 50th anniversary of its incorporation. As is fitting, this event will be commemorated Sunday, June 12 with a gala parade and fire muster as part of Granby's annual Charter Day festivities.

The nearly 40 volunteers who serve Granby as firefighters have dedicated themselves to ensuring the security of the lives and property of their own neighbors, selflessly placing their own safety at risk in doing so. These individuals always stand ready to aid Granby and its surrounding towns and respond to 350 calls each year. Their devotion of time and considerable effort away from work and family exemplifies the true meaning of community service.

The Granby Fire Department began in 1938 with the formation of the Granby Volunteer Firemen's Association. This group of 12 individuals secured the purchase of a single fire truck through aid from the town government, donations from neighbors, and by digging deep into their own pockets. Since that time, through fundraising carnivals and other social events, the Volunteer Firemen's Association has helped to build a fire department that now boasts seven fire vehicles and one ambulance. Since 1959 the Granby Fire Department has been equipped with an ambulance to provide emergency medical service. Today nearly 20 members of the department's force are certified medical technicians.

I would also like to personally acknowledge the contribution of Assistant Fire Chief William Gallup. Mr. Gallup was a charter member of the Granby Volunteer Firemen's Association and his subsequent half century of service is clear testimony of his commitment to the safety and well-being of his community. I join the citizens of Granby in their recognition of this remarkable tenure.

Mr. Speaker, I wish again to offer my congratulations to the Granby Fire Department as it celebrates its first 50 years of dedicated service.

TRIBUTE TO JOSEPH DiCARA

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mrs. BENTLEY. Mr. Speaker, below are some remarks I recently made in honor of my constituent, Mr. Joseph DiCara, who was honored by the Essex Development Corp. for all the good things he has done in my district. I submit them here with all due honor and respect for this great gentleman:

REMARKS OF HON. HELEN DELICH BENTLEY

It's a great honor to be here tonight; I always enjoy visiting with my many friends here in Essex. The Essex Development Corporation is a very valuable organization, one which serves the community and the citizens of Essex with a great deal of fervor and pride. Yes indeed, EDCO is very important, and I will always go out of my way to visit with its members whenever possible.

However, tonight is indeed very special, for now you are honoring one of your own. This man has served as a past president of the organization, and he has done a great deal to contribute to the well-being of the Essex community. Joseph DiCara is a gentleman worthy of the highest praise and admiration, for he has learned what it is like to give of himself and to reap the love and gratitude.

Look around you, Joe. Look at how many friends came out tonight for the sole purpose of honoring you! It has been said that a crowd of people is the loneliest place to be. However, this certainly is one place where no one can accuse you of being alone! The affection and appreciation which fill this room is enough to make any man's life complete.

Joe's tenure as president of EDCO from 1982 to 1987 was a time of great successes and growth for the organization. Yet in fact it served as only one portion of the involvement which Joe DiCara undertook upon himself in terms of community service. He has been a member of the Action Team for Revitalization, the Baltimore County Arts and Sciences Commission, and the Baltimore County Democratic State Central Committee.

He has reaped an impressive number of awards—something so unusual for one so young. The Essex Day Committee Award for Community Service was bestowed upon him in 1980, while he received the Baltimore County Police Citizen's Award in 1984. He also recently received the coveted Alberta Pugh Memorial Award from the Essex-Middle River Civic Council naming him Man of the Year.

Another one of Joe's accomplishments which is worthy of mention is his singing. Long known as the "Baltimore Baritone", Joe has performed with the Baltimore Opera, the Baltimore Municipal Band, and the Baltimore Symphony. Yet he has also sung at Memorial Stadium for Baltimore's Orioles and for the United Way Campaign in 1984. Joe, you have indeed been gifted with a beautiful voice, but—most important of all—you have found a way to use it to help others.

Most of you, however, are aware of these achievements. However, I urge you to think hard about the level of personal sacrifice and time which led to these awards. We members of Congress like to go back to Washington and brag to our colleagues about all of the special people in our district—people with good character and concern for others. Joe DiCara is a person that I will be glad to brag about when I enter his name into the CONGRESSIONAL RECORD.

Joe, I am sure your wife Sheila and your sons Anthony and Michael are very proud of you right now. I'm proud of you, too, Joe, and I urge you to accept my best wishes for a job well done.

VOICE OF DEMOCRACY CONTEST WINNER LAURA MARY BONNER OF ROCKVILLE, MD

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mrs. MORELLA. Mr. Speaker, it is a great honor to congratulate Laura Mary Bonner from Rockville, MD, in my congressional district, one of the winners of the Voice of Democracy broadcast scriptwriting contest sponsored by the Veterans of Foreign Wars of the United States and its ladies auxiliary. Laura is a resident of Rockville, MD, and attends the Georgetown Visitation Preparatory School in Washington, DC, where she is completing her junior year. At Georgetown Visitation, Laura is an honor student. She is a member of the Forensics Club and she has extended her interests beyond the school to an internship with the American Cancer Society. In addition, Laura won the first essay contest, recently sponsored by the St. Thomas More Society among Washington area independent schools.

I commend Laura for her fine academic work and her service to our community. Our world needs women of her caliber. I include Laura's winning broadcast script on the topic—America's Liberty—Our Heritage.

Life, liberty, and the pursuit of happiness, the blessings of liberty, with liberty and justice for all. America's liberty—it truly is our heritage. This heritage is as old as America herself and has enabled America to grow and change throughout generations. America's Constitution was written to "ensure the blessings of liberty" to the framers and to their posterity. We, the Americans of today, are that posterity. We enjoy a precious heritage of liberty which we must work to benefit from and to add to.

Americans enjoy the liberty of self-government. We vote for our leaders, whom we hold responsible to us. A liberty which aids us in exercising the right of self-government—and in fulfilling the tremendous responsibility which it implies—is our freedom of speech and of the press. Americans can be informed on issues and policies because they learn about them through the media and through public discussions. Not only are facts presented, but different opinions and ideas are presented as well. It is our responsibility to avail ourselves of this opportunity to educate ourselves, and to keep informed and make informed decisions about current issues.

Another liberty which Americans cherish is freedom of religion. People of many different faiths and cultures have found acceptance in America. As a result, they have been able to make great contributions of their own and to form the rich, culturally diverse nation that is America today. We must work to ensure that no one's liberties are denied or encroached upon.

America's foundation of liberty has brought forth and made possible even greater liberties—liberties which our founding fathers might never have dreamed of.

Just a few decades ago, for instance, certain individuals saw that the rights of some groups were being denied because of their racial or ethnic heritage. Therefore, these individuals availed themselves of their liberty to speak freely and raised their voices against injustice. As a result of their efforts, yet another group of Americans now enjoy true liberty.

Liberty has always been a cornerstone of American government. It has enabled change and growth, and now, we must work to ensure to ourselves and our posterity a preservation of liberty. America's liberty—let us keep this heritage.

JEFFREY I. MURRAY AWARDED EAGLE SCOUT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. GEKAS. Mr. Speaker, I would like to take this opportunity to congratulate Jeffrey I. Murray of Montandon, PA, for receiving his Eagle Scout Award on Sunday, June 5, 1988, at the Montandon Baptist Church. It is truly an honor for a young man to receive this award recognizing him for his dedication to his community and his country. This event is always a special time for family and friends who can be so proud to know someone who receives this distinguished honor.

Jeffrey has proven his leadership abilities in several ways. In 1986–87, he served as senior patrol leader of Boy Scout Troop 623. In addition, he was awarded the Youth Leadership in America Award for being named the best senior patrol leader in the Susquehanna Council for that year. He currently serves as section program committee chairman in the Order of the Arrow and as the first vice chief. His leadership roles are not restricted to Boy Scout activities. He has served as president of his Sunday school class and at his school serves as Computer Club president, Youth and Government Club vice president, Student Council representative, and has served on the Student Advisory Committee.

While remaining active in extracurricular activities, Jeffrey has consistenly been named on the honor roll and the distinguished honor roll. He also received a letter of commendation for his PSAT exam results and was selected for the "Who's Who Among American High School Students." His greatest academic accomplishment was being chosen in a highly selective program to atttend the Pennsylvania Governor's school for the sciences. He was 1 of 90 students from a pool of over 1,200 to participate in this intense, 5-week program of study of the sciences at Carnegie Mellon University in Pittsburgh, PA.

Mr. Speaker, I invite you and my colleagues in the U.S. Congress in joining me in congratulating Jeffrey I. Murray for earning this distinguished award. He has shown community service and leadership capabilities in his work with the Scouts. He is excellent proof that America's future will be in great hands.

GLASNOST AND COMMUNIST EUROPE

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. YATRON. Mr. Speaker, I rise to say a few words about a most noteworthy event which occurred May 18–20 at Marymount University. I am referring to RCDA's fifth annual conference, which this year was entitled, "Glasnost and Communist Europe."

As chairman of the House Foreign Affairs Subcommittee on Human Rights and International Organizations, I have found RCDA's conferences, publications, studies, and other materials extremely informative and useful. RCDA—religious in Communist dominated areas—has been a valuable resource for the subcommittee in hearings and investigations of human rights abuses in Communist countries.

RCDA's fifth conference was no less a success than the previous four. The subject was most timely, only a week before the President left for the Moscow summit and during a time in which General Secretary Gorbachev's glasnost and perestroika initiatives are having effects throughout Eastern Europe. It also comes at a time when Gorbachev has announced some new reforms, and it attempting to solidify his base before the party conference.

The RCDA conference participants included many prestigous scholars, dissidents, human rights activists, clergy, and others. Among the experts who addressed the conference were Dr. Albert Boiter, Joan Dodek, Union of Coucils for Soviet Jews, Mihajlo Mihajlov (Yugoslavia), Nicolas Pentcheff (Bulgaria), Ayshe Seytmuratova (Crimean Tatars and Soviet Muslims), Prof. Nikolaos Stavrou (Albania), Victor Nakas, Lithuanian Information Center (Baltic States), and others.

Discussions focused on the situation of religion and human rights in all Communist states in Europe—Albania, the Baltic States, Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, the U.S.S.R., and Yugoslavia. The impact of Gorbachev's policies on these countries and on the Communist Party was examined.

The dynamics of Communist-dominated areas necessitate close study as not all of the changes augur uniform improvements in church-state relations and in conditions of human rights. Clearly, the Soviet Government has made some concessions on the question of civil, political and religious rights. However, the Kremlin has a long way to go before it is in compliance with its international obligations under the Helsinki Final Act, the Universal Declaration of Human Rights, and other international covenants.

Some Communist countries do not seem to follow even the limited steps taken by the Soviets toward better church-state relations and a more open society. The persecution of churches and the gross violation of human rights in Romania has increased. The plight of the ethnic Turks in Bulgaria has not improved. Poland may be on the verge of major upheavals. The Albanian people still suffer under one of the most represssive Marxist systems. Some developments in Czechoslovakia, Yugoslavia, Hungary, and East Germany have disturbing implications and must be clarified.

That is why the RCDA conference and its other activities are most important, as this organization deals with one of the most compelling issues of our time—the stability and security of Europe. It reaches into many other areas as well and its contribution to the cause of human rights, religious freedom and world peace in extremely significant.

JACK SCHILLINGER HONORED BY NATIONAL UNITED CEREBRAL PALSY ASSOCIATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. LEHMAN of Florida. Mr. Speaker, Jack Schillinger has been a longtime Miami Shores resident in Florida's 17th Congressional District and a successful business and community leader. But over the years a large segment of his time and that of his wife, Marjorie, has been devoted to service to the physically handicapped.

For years, Jack and Marjorie have been quietly working to improve the quality of life for South Floridians with cerebral palsy. Like his commitment to Temple Israel of Greater Miami, Jack's approach to this effort is low key. He does not seek credit, only results, and

that, along with hard work, is perhaps the reason he has been so effective for so many years.

On May 14, Jack Schillinger was presented with the highest award of the National United Cerebral Palsy Association for his 33 years of volunteer work. I would like to share with my colleagues an article from the Miami Herald which further describes this honor.

The article follows:

[From the Miami Herald, May 29, 1988]

NATIONAL ORGANIZATION LAUDS SHORES VOLUNTEER

Jack Schillinger of Miami Shores has been given the National United Cerebral Palsy Association's highest award for volunteer service. Schillinger, executive vice president of Prestressed Systems and the chairman of United Cerebral Palsy, was honored with the Roger S. Firestone Award at the organization's annual meeting in St. Louis May 14.

The award was presented to Schillinger in recognition of his 33 years of service to the organization. He has served in several capacities, including president and chairman of the board of the Miami organization, member of the state board, and vice president of the national organization.

RECOGNITION OF MAJ. CHESTER H. "SKIP" MORGAN, USAF

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. NICHOLS. Mr. Speaker, I know I speak for many in commending the valuable contributions of Maj. Chester H. "Skip" Morgan of Air Force Legislative Liaison to the various subcommittees and panels of the Armed Services Committee. Major Morgan is a graduate of the U.S. Air Force Academy where he was a Rhodes Scholar finalist. He has completed graduate work in International Affairs at the Fletcher School of Law and Diplomacy and matriculated in law at the University of Texas. He has been admitted to practice law before the Supreme Court of the State of Texas and before the U.S. Court of Military Appeals. Over the past 4 years, Major Morgan, a lieutenant colonel selectee, worked with various congressional bodies on a wide range of significant issues from drug interdiction to military construction. He has tirelessly assisted Congress in fulfilling its responsibilities. He has served the needs of the Air Force without hiding behind the blinders of narrow parochial interests.

During his stewardship of the Air Force military construction account he played a vital liaison role in assisting Congress in the development of legislation that continued three construction projects of critical importance to this Nation's nuclear assets. As an individual who grew up in an Air Force family, he has personal knowledge of the often trying situations faced by overseas service personnel and their families. This knowledge, coupled with his sincere personal concern for their welfare, stood the Air Force in good stead when Major Morgan was asked to explain his service's position concerning construction designed to improve the well-being of military families. The attractive, functional, modern housing facilities that are being constructed worldwide at Air Force installations are testament to Major Morgan's efforts.

Among his many accomplishments, Major Morgan's exceptional expertise on all matters relating to the Goldwater-Nichols Department of Defense Reorganization Act of 1986 have been most noteworthy. Major Morgan was quick to understand and accept the goals the Congress sought for the Department of Defense, goals that would later become embodied in the Goldwater-Nichols Act. He played a key legislative liaison role in the final development of the act and continues to facilitate ongoing dialogue with the Congress concerning changes requested by the Air Force.

Major Morgan is leaving Air Force legislative liaison to assume new duties as a staff judge advocate at Francis E. Warren Air Force Base in Cheyenne, WY, a Strategic Air Command installation. I am sure I speak for all my fellow committee members in wishing him the best of luck and expressing our confidence that he will continue to serve the Air Force and the Nation well.

ON THE RETIREMENT OF MAJ. GEN. BOB NORRIS

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. DICKINSON. Mr. Speaker, I rise today to pay tribute to my good friend and fellow Alabamian, Maj. Gen. Bob Norris, the Judge Advocate General of the Air Force. General Norris is retiring from the U.S. Air Force after 31 years of distinguished service. We owe him a debt of gratitude for his many contributions.

I am also proud to say that General Norris is a fellow alumnus of the University of Alabama, where he received an undergraduate degree in commerce and business administration, and a juris doctorate in 1955. He received his commission through the Reserve Officer Training Corps program and entered active duty in 1955. General Norris has held a number of challenging positions during his career and excelled in every one. In 1983, he became Deputy Judge Advocate General of the Air Force, and assumed his present duties in 1985.

General Norris wil be truly missed. He is a gentleman, a superior officer, and a lawyer's lawyer. One of General Norris' primary concerns has been the morale and welfare of our airmen and their families. He translated his concerns into direct action by establishing and maintaining outstanding preventive law programs for our airmen. The Air Force has recognized General Norris' accomplishments with numerous decorations and awards, including the Air Force distinguished Service Medal, Legion of Merit, Meritorious Service Medal, and Air Force Commendation Medal.

I know that I speak for all of my colleagues in the House in thanking my good friend Gen. Bob Norris for his dedication to duty, and we wish him success in his future endeavors.

EXPLANATION OF VOTE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. PORTER. Mr. Speaker, I was delayed and was not on the floor when the House voted on the conference report on the Employee Polygraph Protection Act (H.R. 1212) vote no. 159. Had I been present and voting, I would have voted "no."

HONORING THE INCORPORATION OF CHESTERFIELD, MO

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. BUECHNER. Mr. Speaker, I rise today to welcome the incorporation of St. Louis County's 90th and newest municipality, the great city of Chesterfield, MO, on this first day of June 1988.

On the fifth of April of this year, the citizens of Chesterfield brought the city into its official being by a 3-to-1 landslide vote in favor of its incorporation. At its founding, Chesterfield is already a strong hub of west St. Louis County. Encompassing 25.67 square miles of residential, commercial, and industrial neighborhoods, Chesterfield is home to 33,010 proud Missourians with a proud new city.

Chesterfield is a center of attention in the fields of agriculture and natural science, housing Monsanto's Life Sciences Center, where pioneering experiments in biotechnology attract the attention of the world's scientific community. New developments in molecular biology and genetic engineering promise to bring novel solutions to age-old problems not only for America, but more importantly, for developing countries whose agricultural needs are much greater.

Chesterfield makes a strong contribution to the economy, with an assessed valuation of about a half a billion dollars, and it makes a strong contribution to its young people, represented in its fine private schools and celebrated Parkway and Rockwood public school systems.

As we honor the incorporation of Chesterfield, so we must honor those who made it possible, including the honorable members of Citizens for Chesterfield, which placed the incorporation initiative on the ballot and made the dream become a reality; the honorable members of the Chesterfield Transition Committee and the Chesterfield Inaugural Commission, which made the changes smooth and easy; and the honorable members of the Chesterfield Chamber of Commerce and Chesterfield Civic Progress, which encouraged and supported these efforts from the beginning.

Mr. Speaker, I predict the new city of Chesterfield will have a most prudent and yet dynamic administration under the direction of its new mayor, the Honorable Frederic Steinbach; its city attorney, the Honorable Douglas R.

Beach; its municipal judge, the Honorable Michael J. Doster; its city administrator, the Honorable Michael Herring; and its city council, the Honorable Jade Gardner Bute, the Honorable Charles W. Fawcett, Jr., the Honorable Barry Flachsbart, the Honorable Robert Frank, the Honorable Richard Hrabko, the Honorable John J. Neiner, the Honorable Ward Overall, and the Honorable Audrey Peeler.

To each of them who will govern from those of us who do likewise, let us wish them wisdom, compassion, understanding, and most of all, patience. For a new city is like a new child—filled with promise and demands. These men and women are the guardians, but democracy is the parent. Together, the newborn city will grow and make a name that all of us will be proud of.

Mr. Speaker, I know as the proud representative of Chesterfield, MO, in this body, that this new community will serve from this great day forward into the 21st century as a fine example of the best of America's communities, which through their embrace of a true sense of family and civic duty, nurture the finest of futures. Welcome, city of Chesterfield, to incorporation in the great State of Missouri, and these great United States.

WHAT IS GOING ON IN THE SOVIET UNION?

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. McMILLEN of Maryland. Mr. Speaker, extraordinary events of historical significance are unfolding in the Soviet Union as our President heads toward a summit meeting in Moscow with the General Secretary of the Communist Party. These developments, important as they are to world peace, should not blind us to certain fundamental realities.

The Washington Post reported on May 23, from Moscow that a plenary session of the Central Committee, which numbers more than 300, approved reform proposals for a special conference of the Communist Party next month. More than 5,000 delegates will come to this party conference, the first in 47 years.

We do not know what the policy planks adopted by the Central Committee consist of as they remain unpublished. But they certainly have a great deal to say on perestroika, the Gorbachev policy of restructuring, renewing and reforming the Soviet economy, and the significance of the Western economies to perestroika.

As we await the certain-to-be dramatic outcome of, first, the Reagan-Gorbachev summit, second, the June Communist Party Conference, we should bear in mind the importance of United States-Soviet economic relations. Recently, the Baltimore Sun published a guest editorial I wrote in this regard, which I would like to share with Members:

FINANCING OUR OWN NOOSE

WASHINGTON.—In U.S.-Soviet relations, economic considerations are as important as military strategy. Over the years, the United States-Soviet economic relationship has focused on technology transfer and the sale of agricultural products. Now, however, we must turn our attention to a neglected aspect of that relationship: the role of capital, or what credit and loans the United States and its allies should extend to the Soviet Union. Lenin predicted that the West would sell the communists the rope with which to hang ourselves. It now appears as if the West is also willing to finance the acquisition.

In testimony before the Defense Burden Sharing Panel of the House Armed Services Committee, former Assistant Secretary of Defense Richard Perle noted that the average monthly lending of European and Japanese banks to the Soviet Union bloc in 1986 was $2 billion. Of this amount, $1.6 billion was in untied, general-purpose loans that could be used to finance either such projects as the building of roads and bridges or the production of Soviet weapons.

Through untied lending, the United States and its allies risk subsidizing the Soviet military build-up and foreign-policy adventurism. Japan alone now provides the Soviet bloc with 40 percent of its credit needs, and 80 percent of this financing has few restrictions on its usage.

The Soviet Union is increasing its presence and range of activities in the international credit markets. For the first time since 1917, the Soviet Union recently dipped into the public bond market and raised $80 million. If the Soviet Union can raise this much in the traditionally conservative Swiss bond market, much more will come through other avenues, if Western financial institutions cooperate.

It would be both impossible and imprudent to halt the flow of capital from the West to the Soviet bloc, but it would not be difficult to tie Western bank loans to specific, nonlethal purposes so that funds could not be diverted for military use. Lending could take conventional forms such as equipment loans, and structured project loans with fixed terms and pay-back schedules. As Sen. Bill Bradley, D-N.J., has observed:

"The West, while not overstating its importance, should treat its capital as a strategic asset and develop a plan for its flow eastward. The flow of capital should be limited and proportionate to the degree of systematic reform. I question the wisdom of helping the Soviets avoid the choice between civilian investment and military build-up."

U.S. policy in Nicaragua highlights the contradictions that result from the United States failing to coordinate its finance and military policies. While the United States has been funding the contras and undertaking other measures in an effort to alter the behavior of the Sandinista regime, a consortium of Western banks advanced a $500 million loan to East Germany in 1985. Within days, it was reported that $20 million was transferred to a Nicaraguan bank account in Panama.

Western economic activities that assist the Soviet bloc relieve Moscow of having to choose between its objectives. In the last two years, Soviet hard-currency earnings have decreased by over 49 percent due to the collapse in oil and gas prices, threatening Mikhail S. Gorbachev's modernization program. For 1987, total Soviet output of good and services increased by only on-half of 1 percent, compared with 3.9 percent growth in 1986. Soviet export earnings of $26 billion in 1986 were only one-third of General Motors' revenues for the same year.

This poor economic performance clearly makes Soviet adventurism around the world more difficult. It is doubtful that the Soviets can carry the burdens of underwriting the economies of Eastern Europe, while supporting the war in Afghanistan and client states around the globe. Western support of Soviet-bloc economies should not aid the Soviet Union to simultaneously pursue both objectives.

The United States needs to integrate its financial dealings with its military policy, and with the actions of its allies. A logical start would be for the Western allies to agree that all lending to Soviet-bloc nations be tied to specific projects so that funds cannot be diverted to military uses.

Capital is as much a commodity as wheat or gold. Allowing it to flow freely to the Soviet bloc deprives us of an important policy too and reward. The customer of any lending institution must state what he will use the funds for; we should ask no less of Soviet-bloc borrowers.

THE SAVING OF THE "SAMMY B."

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. SOLARZ. Mr. Speaker, several days ago the Washington Post ran a column by James J. Kilpatrick on "the Saving of the *Sammy B.*" otherwise known as the U.S.S. *Samuel B. Roberts*. Mr. Kilpatrick recounts the heroic actions taken by the captain and crew of the *Roberts* after it hit a submerged mine last month while escorting Kuwaiti tankers through the Persian Gulf.

As Mr. Kilpatrick rightly states, the crew of the *Roberts* "wrote a story of heroism and ingenuity" that day. Facing fire fed by ruptured fuel tanks, waters steadily rising in the hole of the crippled vessel, and the everpresent danger of other mines with their loads of death floating nearby, the *Roberts*' crew put on a display of damage control whose skill was matched only by the courage and resourcefulness of the crew members.

Mr. Speaker, I was in the Persian Gulf last August, and I know something of the conditions under which our brave men operate in those treacherous waters. Theirs is a dangerous task, with weeks on end of monotonous duty always accompanied by the knowledge that at any moment, their ship could come to a terrifying end amidst a fireball of devastation. It is an often thankless task as well. But it is a task that has been proudly, uncomplainingly, and—when the circumstances require it, as they did last month—courageously assumed.

The people of the United States can take great pride in the fact that they are represented by men and women of such skill and courage. Our Armed Forces personnel should know that we are tremendously proud of them.

Mr. Speaker, this story of the *"Sammy B."* and its resolute refusal to die is a story that bears repeating. And so, Mr. Speaker, I place Mr. Kilpatrick's column in the RECORD, so that so long as men and women study the history of this great House, they will also be reminded of the moving saga of the *Sammy B.*"

THE SAVING OF THE SAMMY B.

(By James J. Kilpatrick)

President Reagan watched a movie the other night. Nothing new in that, but this movie was enough to move a man to tears. It was a brief film prepared by the Navy on the saving of the Sammy B. The story is more than a month old, but it will bear retelling for years to come.

The Sammy B., of course, is the frigate Samuel B. Roberts (FFG 58), commissioned two years ago. She is, or was, and will be again, a beautiful swift ship, 453 feet long, 3,740 tons, carrying a crew of 224 officers and enlisted men. I know a ship just like her.

On April 14 the frigate was engaged in what had become a routine task of escorting Kuwaiti tankers through the Persian Gulf. A clear day. Calm seas. Months had passed without a hostile incident. Twenty-five convoys had gone through. Then, at 6 o'clock in the evening, came a startled cry from a lookout on the bow: mines, three of them, had been sighted.

The Roberts' captain, Cmdr. Paul X. Rinn, ordered his engines halted, then reversed. Carefully, delicately, he began to back out of danger's way. Forty-five minutes ticked by in apprehensive silence. The tension abruptly ended. A submerged mine, packing the destructive power of 250 pounds of TNT, brushed against the Roberts' hull. The explosion ripped a 22-foot hole in the frigate's side. In a fraction of a second, disaster struck. The ship's two gas turbine engines spun off their mounts. Burning fuel formed into a fireball that shot through the main stack and dropped fiery debris on the ship. Decks and bulkheads buckled.

By all the rules of naval warfare, the wounded frigate should have sunk, but the Sammy B. was a ship not meant to follow ordinary rules. Over the next five hours, before the peril of sinking passed, the crew wrote a story of heroism and ingenuity. They literally bound the frigate together with steel wire. They kept her alive to fight again.

When the three mines were sighted, Rinn immediately sounded a call to general quarters, the Navy's condition of highest readiness. The crew closed watertight doors throughout the ship, manned damage-control stations and donned newly developed firefighting gear. Lessons had been learned both from England's experience in the Falklands war and from the terrible damage done last year to the USS Stark, when an Iraqi missile nearly sent her to the bottom. Out of those lessons came new oxygen-breathing apparatus and other equipment for fighting fires at sea.

It was the courage of the crew, rather than the excellence of equipment, that made the difference when the explosion came. Three problems had to be tackled in an instant: fire, flooding and immobility. Make it four problems: 10 members of the crew had been injured, and their injuries had to be treated.

The Sammy B. was dead in the water, a thousand tons of water in the damaged spaces. Her main engines were disabled. Fires fed or ruptured tanks of fuel. Flood waters pushed at bulkheads. The explosion had badly shaken the ship's helicopter. Cracks were developing in the superstructure—all this in the middle of a mine field. But everyone did everything right.

The ship was relatively intact forward. An auxiliary room forward of the main engine room was flooded with a foot of water, but generators and ventilating equipment were working. Rinn put two auxiliary power units to work—electric motors with propellers—and the ship regained limited mobility. Mechanics got the helicopter working. Damage control units fought the fires and shored the sagging bulkheads. Crew members struggled through blinding smoke to remove ammunition from the fire zone. To hold onto the after-end of the ship, sailors rigged cables of steel wire that kept the Sammy B. in one piece. At last free of the mine field, she traveled slowly in tow to Dubai.

Vice Adm. Henry Mustin, deputy chief of naval operations, told reporters last month that the story of the frigate Roberts will become part of the curriculum in damage control at the Naval Academy. "We can't speak highly enough," he said, "of those young fellows who brought us back a ship. We don't think it could have been done better by anybody, and we think that we're the finest Navy in the world."

Let me add a word as the father of a senior chief petty officer on the frigate Nicholas, sister ship to the Roberts, which went on duty this week in the Persian Gulf. I think so too.

THE SLOVAK LEAGUE OF AMERICA

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. KANJORSKI. Mr. Speaker, on November 14, 1987, the Slovak League of America convened in Wilkes-Barre, PA, and unanimously adopted a resolution that reiterates their unswerving, permanent, and loyal commitment to the basic tenets upon which democracy in America stands.

Being an organization devoted to the moral truths set forth in the Declaration of Independence, the Constitution, and the Charter of the United Nations, the Slovak League of America not only actively supports peaceful cooperation between the nations of the world, but also strives toward the affirmation of the dignity and worth of every human being and every nation, however large or small.

In addition to dedicating themselves to these principles of peaceful cooperation between men and nations, the Slovak League of America holds fast to their cultural roots by preserving their distinctive characteristics. Because our country is a melting-pot of so many different cultures, it sometimes happens that groups lose part of their cultural heritage and identity in the process of assimilating into American culture. But the Slovak League keeps their cultural spirit alive by preserving and cherishing their language, songs, dances, and arts, which are enthusiastically practiced so that future generations may share in the proud heritage of their ancestors.

The Slovak League of America has also dedicated themselves to the eventual liberation of their brethren in Slovakia, who continue to be subjugated and are denied the right to choose their own form of government in their homeland. It is my hope, Mr. Speaker, that in this current spirit of glasnost, the people of Slovakia, and other Soviet bloc nations, will be able to determine their own political destinies by once again retaining their right to self-government and their right to worship as they choose. Until this most fundamental right of self-determination is regained by the people of Slovakia, the Slovak League of America will continue to add its voice to the chorus of others protesting the unceasing persecution of the nations of the Soviet bloc.

Mr. Speaker, I am proud to associate myself with the Slovak League of America, who seek not only to preserve a very important part of their cultural past, but who also set their sights toward a brighter future for all citizens of the world. The aims of this organization are identical to the aims of our Founding Fathers: the freedom of self-government, the freedom to worship, and the freedom to live a life of one's own choosing. Together, we seek the freedom of free men, and the construction of a free world.

A TRIBUTE TO TWO OUTSTANDING TEACHERS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. COELHO. Mr. Speaker, it is often said that our Nation's most precious resource is its young people. I firmly believe this adage, and its counterpart is that our teachers are one of our most important resources as well. It is most fitting, then, that we pause periodically and pay tribute to those exemplary teachers we go above and beyond the call of duty in their efforts to educate our young people. It is in this spirit that I rise today to pay tribute to two outstanding teachers at Thomas Downey High School in Modesto, CA, Ms. Pamela Liljeblad and Mr. Donald Payne.

Pamela Liljeblad studied at the University of the Pacific and Northwestern University, and has been an English and speech instructor at Downey High for 12 years. She has also served as the school's academic decathalon coach and speech coach since 1982. Ms. Liljeblad's speech program is nationally recognized for its outstanding successes over the years, and she is respected both locally and throughout the State for her innovative and inspirational teaching methods.

Donald Payne studied at the University of the Pacific, California State University Stanislaus, and the University of California at Davis. He has taught biology at Downey High for almost 20 years, and has also served the student body as the track coach and the advisor to the sophomore, junior, and senior classes. Mr. Payne is a member of Phi Delta Kappa and Sigma Xi, and in 1981 he was nominated for the Sigma Xi Science Teaching Award. His dynamism and creativity in the classroom have earned him the respect of both his students and his colleagues at Downey.

Mr. Speaker, the achievements of these two outstanding educators are not going unnoticed. Ms. Liljeblad and Mr. Payne are the recipients of the 1988 Downey High School Teacher of Excellence Awards. I would like to take this opportunity to congratulate Pamela Liljeblad and Donald Payne for a job well done. The students of Thomas Downey High School are lucky to have as talented and

dedicated teachers as Ms. Liljebald and Mr. Payne, and I would like to extend my deepest appreciation to them for all they are doing to nurture our most precious resource—our young people.

THE URGENCY FOR MULTILATERAL REDUCTION OF AGRICULTURAL SUBSIDIES

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. BEREUTER. Mr. Speaker, Members' attention is requested to the excellent and timely editorial from the May 21-27, 1988, edition of the Economist. Representatives and parliamentarians from the European Economic Community are fond of arguing that American agricultural subsidies slightly exceed those of the EC. What they don't mention, first, is that in contrast to the European expenditures, the United States subsidies are directed primarily toward reducing production—not primarily as export subsidies to capture third-country markets.

Second, they like to compare only direct Government subsidies, failing to mention that an incredible 62 to 67 percent of the total EC subsidy falls on the back of their consumers at the grocery store through higher prices than they should be paying. The comparable figure for the United States is 25 percent. For emphasis read what the Economist says about that subject:

The cost to the [European] consumer appears in no public accounts. If it did there would be an outcry. Shoppers in Europe meet 62 percent of the cost of farm support in higher prices. The Japanese, who have the worst of all farm policies, make their consumers pay 75 percent of the cost through the most inflated food prices in the world. * * *

European consumers must be educated about their high food prices. If they were, they would probably demand that the European Community revise its common agricultural policy within a multilateral framework so as to reduce agricultural subsidies and stop blocking any serious effort to begin such reforms through the Uruguay Round of GATT as contemplated by the United States and the Cairns Group. The December mid-round review of the round is rapidly approaching and a clearly defined framework for such a multilateral agreement to gradually reduce such subsidies should be in place by that time. The credibility and effectiveness—indeed the future—of GATT and its role as a viable international organization depends very significantly upon success now in locking in a program to dramatically reduce agricultural subsidies and to bring services under the GATT umbrella. The editorial is printed below:

[From the Economist, May 21, 1988]

THE ROAD DOWN SUBSIDY MOUNTAIN

Three June days locked up in the Metro Toronto Convention Centre are likely to leave the leaders of the world's seven largest capitalist countries bored and bad tempered. Even by past standards this annual summit will have precious little on the agenda. Yet each leader has a common and cussed problem that needs to be tackled at home: what to do about costly farm policies? A patchwork of subsidies, tariff walls and price guarantees is straining every nation's treasury, making a nonsense of world trade and still not providing a decent living for many farmers. Farm reform should be made the main stuff of the summit.

A few years ago, only economists thought the industrial world could treat itself to a free lunch by reforming its farm-support policies. They said that subsidies carry such massive costs—some of them on government budgets, most of them not—that abolishing them could create the resources to compensate farmers generously and still leave everybody else better off. Politicians long viewed this as economic sense but political suicide, so let their domestic farmers' lobbies set the limits of what they dared to propose. Since 1986 they have begun to change their minds. A new round of trade talks has farm subsidies on its agenda for the first time in three decades. The American government, the most important participant in the talks, has swung decisively towards reform. The old paralysis is wearing off.

Yet farm-trade talks have got nowhere in the past three months. That is partly because the European Community is worn out after a Herculean farm-budget fight in February, and partly because rising world prices of food have temporarily eased the horrendous cost of subsidies. Neither of these is a good reason for delay, but the negotiators' sense of urgency has slipped. Untended, the present inefficiencies are certain to get worse: demand for food in rich countries is stagnant, supply is growing at 1½% a year and, with a little promised genetic engineering, could grow much faster.

What should be the aim of the farm-trade talks? America's answer is blunt: to abolish within a decade all farm subsidies which distort production. Countries could still keep their farmers off the breadline and their scenery pretty, but food trade and prices would be determined by the market, a long-lost friend. Europe's reply is mealy-mouthed. It wants to reduce farm subsidies, not eliminate them; and it hates deadlines. If Europe's politicians cared about the inflated prices their consumers have to pay, the implicit taxes levied on industry, the harm their policies do to poor countries, they would accept full liberalisation as the goal. Instead, they worry mostly about their farm budget.

The cost to the consumer appears in no public accounts. If it did there would be an outcry. Shoppers in Europe meet 62% of the cost of farm support in higher prices. The Japanese, who have the worst of all farm policies, make their consumers pay 75% of the cost through the most inflated food prices in the world; added to this is the cost of justified American annoyance at being denied free access to their market. The Toronto meeting provides the opportunity for Mr. Noboru Takeshita and the European leaders to give the farm-trade talks a push by agreeing on a common goal: an end to all trade-distorting subsidies. This is the broad-brush policy-making that economic summits are for; the GATT talks could then grind slowly through the details.

IMPATIENCE IS A VIRTUE

Such an agreement on ultimate ends between America, Japan and Europe would brighten the outlook for the mid-term review of the trade round, which takes place in December. If there could be an agreement on means too, even better. The summiteers should also agree to submit lists of their trade-distorting farm policies to the GATT secretariat, for costing and regular scrutiny.

Above all, the partners must regain their sense of urgency. "Realists" point out that in 25 years the main industrial countries reduced tariffs on industrial goods only from 15.6% to 6.3%. That was not good enough for trade in manufactures, and it is not good enough for agricultural trade. At last governments are daring to talk about real reform. That was the hard part. Now they should get on with it.

SOCIAL SECURITY WORK INCENTIVES ACT OF 1988

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. BARTLETT. Mr. Speaker, due to a significant error made in the printing of my statement on May 25, 1988, I am resubmitting my remarks so there is no confusion as to exactly what this legislation does.

Eighteen months ago Congress enacted Public Law 99-643, the Employment Opportunities for Disabled Americans Act. This law eliminates work disincentives for SSI recipients who want to accept a job without losing their health care benefits.

Data from the Social Security Administration shows that this legislation is having its intended effect. Participation in the 1619(a) program, receiving cash benefits and Medicaid, has increased dramatically since July 1987, when Public Law 99-643 took effect. All persons in the "trial work" status at the end of June 1987 are now in the 1619(a) program. Participation in the 1619(b) program, continued Medicaid coverage only, has increased by 20 percent since July 1987. Passage of this legislation has provided work incentives for the disabled.

But Public Law 99-643 is not enough. It only applies to persons with disabilities who participate in the SSI Program. This work incentive should be extended to persons who participate in the SSDI Program.

Today, I am introducing legislation entitled, the Social Security Work Incentives Act of 1988. Congressmen MATSUI, GRADISON, LEVIN, LAGOMARSINO, and WORTLEY join me in this effort. This legislation removes an essential disincentive to work by allowing SSDI recipients who do return to work and earn above the SGA level—$300 per month—to be considered "disabled but working."

When an SSDI recipient returns to work, regardless of whether his earnings would place him in the "disabled but working" status, his monthly benefit will be reduced by $1 for every $2 earned, after exclusion of the first $85 and impairment-related work expenses. The person will be permitted to stay in the "disabled but working" status as long as he continues to have the disabling impairment that is the basis of his eligibility. This is parallel to section 1619 in the SSI Program.

The real disincentive in current law, though, is a loss of medical benefits rather than cash benefits. Under the 1619 program, the SSI re-

cipient continues to receive Medicaid upon returning to work, but SSDI participants in similar circumstances cannot receive Medicare.

SSDI recipients do not have access to Medicaid coverage, but are instead covered, after a 2-year waiting period, by Medicaid.

Under current law, SSDI recipients who return to work are covered by Medicare for 48 months and are then shut off. This legislation will allow SSDI recipients in the "disabled but working" status to continue to receive Medicare benefits for 48 months and be able to buy into Medicare once the 48-month period is exhausted.

The buy-in arrangement is outlined as follows:

The State Medicaid Plan would pay the Medicare premium for individuals with earnings below 150 percent of the poverty line—$8,655—and individuals who meet the SSI resource test.

The State Medicaid Plan would pay a portion of the Medicare premium and the individual would pay the rest if the individual's earnings are between 150 and 300 percent of the poverty line—$8,655 to $17,310.

Individuals whose earnings are above 300 percent of the poverty line would pay the entire Medicare premium.

While I have not yet received a cost estimate from CBO, I believe the bill will generate savings to the disability insurance trust fund through reduced benefit payments. In addition, there will be increases in Federal income taxes and revenues will increase in the OASDI and HI trust funds from income and employment taxes as well. The legislation will reduce any Medicare costs because it requires employers to cover their disabled workers under their employment-based health plan with Medicare as the secondary payor.

Other provisions of the legislation would: First, provide for automatic reinstatement for those individuals whose income fluctuates; second, allow an individual who is working and receiving disability benefits on the date of enactment not to be subject to these rules if his income does not exceed $250; third, and allow individuals to retain SSI eligibility for Medicaid even though they receive SSDI benefits based on their parents' retirement, disability, or death.

In 1987, 2.8 million disabled people received SSDI benefits and approximately 33 percent were under age 45. Only one-half of 1 percent of these workers ever return to the work force. SSDI recipients under age 45 are in their prime working years and could contribute substantially to our economy if they could return to work. If this legislation can double that percent, it will be a tremendous success.

I urge my colleagues to cosponsor this legislation. It will promote employment among persons with disabilities by removing a major disincentive which currently exists in the SSDI program.

HUMAN RIGHTS IN THE SOVIET UNION

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. BROOMFIELD. Mr. Speaker, as President Reagan concludes his historic summit meeting with Soviet leaders, I want to commend him for having put the issue of human rights at the very top of his agenda. The Soviet Union has long maintained that the human rights situation in their country is an internal matter, and United States concerns amount to nothing more than meddling.

However, issues involving the denial of basic human rights transcend national boundaries and must be the concern of people everywhere. The international scope of the issue is evidenced by such agreements as the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Helsinki Final Act of the Conference on Security and Cooperation in Europe to which the Soviet Union is a signatory.

Recent actions in the House regarding the situation in the Ukraine—the largest non-Russian ethnic group in the Soviet Union—reflect both the high priority with which the Congress and the American people view human rights issues, as well as the deplorable human rights situation in the Soviet Union.

Each year in late January, many of us in the House of Representatives take time to observe Ukrainian Independence Day. During this time, we mark the establishment of the independent, democratic Ukrainian nation in 1918, and mourn the subjugation of that sovereign nation by the troops of the expanding Soviet empire in 1921. Since then, we have seen the Soviet Government brutally try to destroy the culture, religion, self-identity and the spirit of the Ukrainian people. But we know, in fact, that the Soviet efforts have been unsuccessful, and that the self-identity of the Ukrainian people lives on, both in their native land, and in the hearts of Ukrainians everywhere.

In recognition of the Soviet Government's active persecution of religious believers in the Ukraine, the House-approved Senate Joint Resolution 235, on April 19, which deplored the Soviet Government's active antireligious policies. As a cosponsor of the House counterpart bill, House Joint Resolution 429, and as one of the floor managers during consideration of this measure, I was pleased with the overwhelming support this bill received.

This resolution focuses attention on the wholesale religious persecution that runs rampant in the Ukraine and in the other countries within the Soviet sphere. In support of the right of the people to practice their faith freely, our resolution calls upon the Soviet Government to abide by their international human rights commitments and legalize the Ukrainian Orthodox and Ukrainian Catholic Churches, allow the free practice of religion in the Ukraine, and release all those imprisoned for their religious beliefs.

This is a particularly timely resolution because 1988 represents the millennium of Christinaity in Kievan Rus. Through this celebration of the millennium, we have a particularly clear reminder of just how long Christianity and its principles have been an integral part of the Ukrainian culture, despite the despotism of the Soviet system that attempts to crush the Ukrainian people's faith.

In the 1930's and 1940's the Soviet Government undertook the forcible liquidation of the Ukrainian Orthodox and Ukrainian Catholic Churches. Today, even though the Soviets claim a policy of the noninterference of the state in matters of religion, their deeds continue to belie their words. Those important native churches, along with other Protestant churches of the Ukraine, continue to be illegal, and their followers suffer harassment, job discrimination, and arbitrary arrest and imprisonment. Religious believers continue to find their access to religious materials restricted, and the religious education of their youth prohibited.

Yet, even in the face of this harsh and unrelenting religious persecution, the Christian faith brought to the Ukraine a millennium ago continues to live in the hearts of its people.

Nearly a month later, on May 17, the House again expressed its view that the Soviet Government should abide by the letter and the spirit of the international human rights agreements that it has signed. Receiving overwhelming support, House Joint Resolution 223, once again calls upon the Soviet Government to release its religious prisoners, and allow then to freely practice their religion within their churches and homes.

Just prior to the President leaving for the Moscow summit, the House once again overwhelmingly approved a resolution protesting Soviet Human Rights violations, House Resolution 437. This resolution calls attention to the fact that the Soviet Union continues to maintain arbitrary and capricious barriers on the freedom of movement of the people of the Soviet Union, and denies respect for the rights of individuals belonging to national minorities, like Ukrainians, to enjoy and practice their culture, language, heritage, history, and religion.

House Resolution 437 also expresses the deep concern of the House over recently drafted emigration regulations which basically codify previous pretexts used by the Soviets to reject exit visa applications. These rules not only fail to guarantee the internationally recognized right to emigrate, but they actually deny that right for all but a narrowly defined few. To underline its point, the resolution also establishes a strong relationship between human rights and progress in other aspects of the United States-Soviet relationship.

However, Mr. Speaker, the brutality of the Soviet Government, its attempts to crush the spirit of the people living under its tyranny through Russification, the destruction of their ethnic heritage, and through individual harassment, imprisonment, exile, and death is a constant thread that runs throughout Soviet history.

There is no clearer example of the depth of the inhumanity to which the Soviet Union will go to subjugate a people than the Great Famine in the Ukraine which was engineered by the Soviet Government in 1932–33.

For the past 2 years, I was honored to serve as one of the congressional members

of the Commission on the Ukraine Famine. The Commission was charged with the responsibility of expanding the world's knowledge of the Ukrainian famine of 1932–33, and to provide a better understanding of the Soviet system by revealing the Soviet role in the famine. On April 22, the Commission met part of its congressional mandate in submitting its report on the Ukrainian famine.

During the 2 years, the Commission heard extensive testimony and conducted indepth interviews with survivors of the famine. We heard of the million who died of starvation in the Ukraine during this terrible period of Government-sanctioned genocide. Famine survivors told the Commission of seeing bodies left where they died; of watching their loved ones progressively weaken from hunger, and slowly give way to prolonged and painful death. The Commission learned of countless ways that Ukrainians learned to survive eating anything from grasses, weeds, and tree limbs, to wild animals and birds that they caught and devoured uncooked to alleviate their great hunger.

We also learned from eyewitnesses that crop harvests in the Ukraine during this period were as bountiful as those in previous years when there was no famine. Rather than being the result of natural causes, the famine of 1932–33, was caused by the Soviet Government's organized confiscation of grains and other foods from the people of the Ukraine. Witnesses before the Commission told of train loads of foods and grains leaving the Ukraine while people starved. They told of systematic house-to-house searches where every ounce of food was seized by Government officials, and of travel restrictions that were imposed to keep Ukrainians from going to other areas where food was available.

The conclusions of the Commission's report to the Congress is inescapable. The famine which occurred in the Ukraine, and which took millions of lives there, was the result of deliberate policies of the Government of the Soviet Union.

Further, the Soviet-engineered famine was an act of genocide that was meant to crush a flowering "Ukrainianization" or pride of nationhood on the part of Ukrainians, and to strengthen the Soviet grip on the Ukraine.

The uncovering of the truth of the genocide that took place in the Ukraine during those tragic years of 1932–33, was a difficult assignment. It was heartrending for those of us on the Commission who heard the details of this genocide for the first time. It was painful for those who survived this catastrophe to call upon memories that many had buried with friends and loved ones so many years ago.

In this sense, the Nation owes its sincere thanks to the Commission's staff director, Dr. James Mace and his dedicated staff. We also owe our deep gratitude to the six public members of the Commission who came from the Ukrainian-American community, Mr. Bohdan Fedorak, Dr. Myron Kuropas, Mr. Daniel Marchishin, Ms. Ulana Mazurkevich, Ms. Anastasia Volker, and Dr. Oleh Weres. Their untiring effort and the insight these public members of the Commission provided in working with the Ukranian-American community, and in urging them to tell us their story were invaluable.

The results of the Commission's work provides many important lessons for all of us. For far too long, many of those who were aware of the 1932–33 famine in the Ukraine, thought of it as a narrow ethnic matter of interest only to the Ukrainian-American community. However, in working with the Famine Commission, it is clear that the tragedy that took place in the Ukraine goes far beyond the concerns of any single ethnic group and touches all of us.

I am therefore extremely pleased that the Congress passed the bill, S. 2304, and I am honored to have had a role as the floor manager of this legislation to extend the life of the Commission until 1990. This will provide the Commission with the time needed to complete its important work of disseminating the results of its research.

Mr. Speaker, during the time when the Soviet Union is carrying out an extensive public relations program to accompany its glasnost policy, we must remember the lessons of the genocide in the Ukraine and the moral depravity of the Soviet system of government—a system of government that would initiate such a policy, and a system that today remains essentially unchanged.

We cannot deny that improvements have occurred under the leadership of General Secretary Gorbachev. At the same time, however, we should not be overly dazzled by these changes because they have yet to be institutionalized and made a permanent part of the Soviet system of government.

In simply examining the human rights conditions in the Ukraine as exemplified by the resolutions recently agreed to in Congress, clearly the Soviet Union has a long way to go in matching its actions to its international human rights commitments or to any basic standards of decency.

We cannot become complacent about the human rights situation in the Soviet Union. Rather, we must remember one more lesson of the 1932–33 Ukrainian genocide that we must be ever vigilant and continue to hold the Soviet Government accountable for its human rights practices. We can do no less in memory of those who have been crushed by the heel of the Soviet boot, and in respect for those who continue to bear the heavy yoke of Soviet oppression while carrying dreams of freedom in their hearts.

A SALUTE TO RABBI ARTHUR J. LELYVELD

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. STOKES. Mr. Speaker, on Sunday, June 5, 1988, The Israel Histadrut of Greater Cleveland will host a testimonial dinner honoring Rabbi Arthur J. Lelyveld, Senior Rabbi of Fairmount Temple since 1958 and Rabbi Emeritus since 1986. Members of the religious, political, and business community will gather to pay tribute to this dynamic human being.

I am proud to join the community in this special salute to Rabbi Lelyveld. His scholarship, community service, and concern for the oppressed have earned him the admiration of his contemporaries, the esteem of his colleagues, national recognition, and prestigious awards. His love and support for Israel has been singular and noteworthy and his record of achievements reads like a page of "Who's Who in America."

At this time I would like to share some of Rabbi Lelyveld's experiences and achievements with my colleagues.

A native of New York City, Rabbi Lelyveld was for 10 years (1947 to 1956) national director of the B'nai B'rith Hillel Foundations. From 1944 to 1946, he was executive director of the Committee on Unity for Palestine, and from 1956 to 1958, he served as executive vice chairman of the American-Israel Cultural Foundation. Rabbi Lelyveld went to Mississippi during the summer of 1964 as part of a team of Cleveland clergy for service as a minister-counselor to the Council of Churches Commission on Race and Religion. Although severely beaten, Rabbi Lelyveld remained committed and involved in the civil rights struggle and the belief of equality for all Americans.

Rabbi Lelyveld is also a published author. His works include the Hart Publishing "For and Against" series, in which he wrote articles on "Population Control," "Censorship" and "Punishment." His 1973 Goldenson Lecture at the Hebrew Union College-Jewish Institute of Religion in Cincinnati, entitled, "The Social Relevance of the Eighth-Century Prophets" and his 1984 B.G. Rudolph lecture at Syracuse University on "The Unity of the Contraries: Paradox in Normative Jewish Thought" have also been published.

This unique leader is a scholar as well. He serves on the faculty of John Carroll University and was visiting scholar at the Oxford Centre for Postgraduate Studies in Oxford, England.

Mr. Speaker, Rabbi Lelyveld's service to humanity transcends religious and racial boundaries. He was general chairman of the Cleveland Jewish Welfare Fund campaign for which he was honored with a silver medallion, the highest award of the Cleveland Jewish Community Federation. In 1965, he received an award "for distinguished service to the NAACP and the cause of freedom". In 1964, the Cleveland community honored him by creating the Arthur J. Lelyveld Forest in the State of Israel. On April 15, 1986, Rabbi Lelyveld was the recipient of the John Carroll University "Centennial Medal". It was presented to him "as a neighbor, a valued faculty member, and in a spirit of interreligious friendship". The Arthur J. Lelyveld Center for Jewish Learning, the newly constructed library of Anshe Chesed Congregation, was formally dedicated on April 6, 1986, to honor Rabbi Lelyveld for 28 years of service to the congregation. It is the largest synagogue library in the country.

Mr. Speaker, for many years I have benefitted from a close friendship with Rabbi Lelyveld and his family, including his talented wife, Teela, and his daughter, Robin, who was a part of my congressional team. Rabbi Lelyveld is a man of unquestionable character, determination and courage. I am proud to join the members of The Israel Histadrut of Greater Cleveland in honoring Rabbi Lelyveld for his efforts to eliminate injustice, his quest for

peace, racial and religious understanding, his unstinting support of Israel, and his devotion to humankind everywhere.

I would ask that my colleagues join me in saluting Rabbi Lelyveld on this special occasion.

THE PLIGHT OF VLADIMIR AND RIMMA BRAVVE

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. HORTON. Mr. Speaker, I wish to call my colleagues attention to the plight of the Bravve family. Two years ago, Vladimir and Rimma Bravve ended their 4-year wait for exit visas to emigrate to Rochester, NY, in my district. Rimma needed treatment for cancer, but 4 years proved to be too long for her to wait. She only survived for 1 year until last June. Now, it is Sophia, the sister of Vladimir, who is sick and needs her parents during this difficult time. The Bravves and the Rochester community have seen this situation to be so critical as to warrant a hunger strike. This is the same hunger strike started by the Bravves, whose health is so poor that Vladimir had to take it over. The community then had a chance to show its support for the Bravves' cause.

Grigory and Ninel Bravve are living in Moscow awaiting exit visas to emigrate to Rochester to be reunited with their son, granddaughter, and daughter. The Soviet Government has detained them on the basis that Grigory, in his job as a civil engineer, held knowledge of state secrets. Grigory's job involved building houses outside the grounds of an aeronautical institute for its employees. Mr. Gorbachev, himself, has said that possession of state secrets should not detain emigration for more than 5 years, or in extreme cases 7 years. The Bravves have been waiting for nearly 9 years.

Mr. Speaker, I urge my colleagues to join me in signing a letter that I have written to Mr. Gorbachev in regard to the pressing issue of the emigration of Grigory and Ninel Bravve. In my years as a member of the congressional human rights caucus, I have never seen a case as compelling as this one.

RESTORE MEMORIAL DAY TO ITS TRADITIONAL MAY 30 DATE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. DORNAN of California. Mr. Speaker, I would like to share with my colleagues a letter I received from one of my constituents concerning Memorial Day. Mr. Hilbers of Huntington Beach, CA, raises the issue that since Congress changed the strict observance of Memorial Day from the traditional date of May 30, it seems that many have lost sight of the intent of the holiday—to honor those men and women who served their country and gave their lives to defend our freedom.

Like my constituent, I believe that Memorial Day should be celebrated on the traditional date of May 30. I urge my colleagues to reflect on Mr. Hilber's thoughtful letter and join with me as cosponsor on H.R. 2438 which was introduced by my good friend Mrs. HELEN BENTLEY, of Maryland:

DEAR CONGRESSMAN DORNAN: I am 37 years old and never been in the service, but have read a lot about WW II the last several years. As a result of starting to understand the horrible human price paid for the freedom I enjoy as an American, I started going to Memorial Day ceremonies at various L.A.-Orange County cemeteries the last 3-4 years, to thank those who paid the price. The trouble is there are few people who go to these ceremonies anymore. A couple dozen WW II and Korea vets and their wives, and that's about it. I'm standing there, the only person under 55 years old most of the time.

I talked to a gentleman from the V.F.W. about this, and he said that since they made Memorial Day the 4th Monday in May instead of its traditional May 30th, attendance has gone to hell. Now Memorial Day is just a 3-day weekend, its sacredness has been in effect castrated. He said they changed Veterans Day back to its traditional day from Monday, 2-3 years ago, and until they do that to Memorial Day, it will continue to be deep in the shadows of a 3-day weekend.

Sincerely,

GREG HILBERS.

THE VICE PRESIDENT SALUTES THE WEST POINT CLASS OF 1988

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. GILMAN. Mr. Speaker, on May 25, I had the privilege of accompanying our Vice President and Mrs. Bush to the graduating ceremonies at our U.S. Military Academy.

The commencement ceremonies at West Point have been a high point for our entire mid-Hudson valley of New York ever since 1802.

This year, a crowd of more than 10,000 braved a steady rain to witness the graduation of the 849 men and 90 women of the class of 1988. Lt. Gen. David R. Palmer, the Superintendent of West Point, informed us that the cadets insisted on an outside ceremony, despite the inclement weather.

Following the graduation ceremony, all 939 graduates were sworn in as second lieutenants by former Chief Justice Warren E. Burger, the recipient of the 1988 Thayer Award.

Vice President BUSH's warm remarks and personal congratulations to each and every cadet helped cut through the chill of the rain. In order to share the Vice President's thoughts with all of our colleagues, I request that the full text of his remarks be included at this point in the RECORD:

EXCERPTS FROM REMARKS OF VICE PRESIDENT GEORGE BUSH, U.S. MILITARY ACADEMY, WEST POINT, NY, MAY 25, 1988

It is an honor to be here today, a day that is important for you, West Point's class of '88, but also for your country. For each class that travels through this academy, and emerges in the ranks, strengthens our military—and, in so doing, strengthens the peace.

I have been here three times in the past seven years, and each time I'm struck by a paradox: how plain and prosaic a place this is in many respects, and yet how evocative. It is impossible to come to West Point and not feel a kind of tug—a tug that's hard to describe but that has to do with our history and our lives, and the ancient call of valor, and a certain long gray line.

I know you've all given thought, at least now and then, to those who walked before you here, and on that line. I suspect that way back, years ago, when you were frightened plebes, that there were times that first autumn when you walked along the walkways here and thought of names. Robert E. Lee and Ulysses Simpson Grant, Pershing, Stilwell, MacArthur, and Ridgeway, Patton and Omar Bradley, the GI's General. And the nicknames—Stonewall, Black Jack, Vinegar Joe and Blood 'n Guts.

We gave them nicknames because they were real to us, and because we had affection for them, and appreciated them. I do not think it is a paradox that a country that so loves peace should so love its fighting men. I think America has always had a big heart and a shrewd brain, and it was the brain that knew that good generals help us keep the peace. And when peace is lost, generals help us win it back.

I am especially happy to have been invited today because this is a perfect place to speak of big things. I am here to speak of the peace we currently enjoy, and how we got it, and how to keep it.

But I want to stop just one moment to indulge a personal desire. You at West Point have a prestigious, highly coveted honor you bestow each year called the Thayer Award. And I have a friend and a man I admire named Warren Burger, former Chief Justice of the Supreme Court. The academy is allowing me to announce publicly that this year that great award will go to that great man.

Warren Burger—congratulations on an honor well earned.

The President this morning left for Moscow, where he is to continue the personal talks with General Secretary Gorbachev that began two-and-a-half years ago, after five years of patient effort.

These summit talks are good in and of themselves, for they contribute to an atmosphere of peace and familiarity. It is not true that "talking is better" is sentimental "Talking is better" is true. But how did we get here, and how do we build on it? To answer that, I must go back briefly in time.

The day the Second World War ended, America was changed forever. Our role in the world had changed. We had not asked for it, but we had to accept it. We had learned a great deal from the war, and from the events leading up to it. We had learned that a clean well-motivated desire for peace is not enough in itself to achieve it. And we had learned that isolationism is an illusion: it does not keep peace, it guarantees war by tempting aggressors.

It's understandable that before the war, we had sought to stay to ourselves. We wanted to be no part of the failures of the League of Nations or the cynicism of European politics in the 1930's. We hoped to remain isolated from the rise of fascism and its commitment to conquest.

But as you know, and as we so painfully found, there was no hiding place. And so we

fought, and so we won, and so 300,000 young men and women lost their lives. I know; I was there; it was one of the formative experiences of my life, as it was of our nation's.

At the end of the war we, as a people, faced a crucible. Across the ocean was a continent ravaged by war and occupation. Our allies were in shambles. Soviet totalitarianism—potent militarily, backward economically and ruled by Stalin's iron will—posed a direct threat to the weakened countries of Europe. Poland had already been lost. We faced the dawning of the atomic age, an age that changed the very meaning and consequence of war at a time when the possibility of conflict remained all to real. And we ourselves were exhausted and wished, understandably, to turn inward.

But we didn't. We couldn't. And we didn't flinch. Our political leaders, Democrats and Republicans, tempered by war and toughened by adversity, forged a set of principles to chart our future course.

They began with an insight as old as the wilderness: a house divided cannot stand. In unity there is strength. We can debate our foreign policy fiercely, they thought, hurl words and give and take no quarter. But the fighting would end at the water's edge.

From that, much followed.

The tough men who took us from the '40s to the '60s accepted the reality that we now had no choice but to be engaged in this world. They acknowledged that our fate and our security were interwined with the Western democracies. There was no going back. We could keep, in certain respects, a certain prudent distance—but the days of isolationism were over; there was no going back; history has its own momentum.

They agreed we would not only play a big part in the world, we would lead. And not only because of our strength, but also because of our goodness. The world trusted us, and rightly so. I will not put too innocent an edge on this, but America was known to adhere to certain values, and to prize and defend liberty. And so we would take the lead in organizing the defense of the Western world and rebuilding the West's economies.

To do this, we would have to stay strong, with strength measured not only in military, but also in economic terms—for one cannot be sustained without the other.

We would need a strong deterrent, and the demonstrated will to use it. For only if a deterrent is credible does it deter. Our commitment to deterring war would need to be matched by our determination to pursue peace through negotiations—negotiating with our eye open and without illusions.

These principles came to embody the great bipartisan consensus—a consensus that produced, among Democrats and Republicans alike, a commitment to our allies in Europe, a commitment to defending the Persian Gulf, the West's economic lifeline, a commitment to our sisters and brothers in this hemisphere, a commitment to the spread of democracy—for democracy itself tends to bring peace just as totalitarianism tends to bring aggression, and a commitment to arms control and arms reduction negotiations with the Soviets.

Who were the dominant figures of the consensus? Well, this Republican doesn't mind telling you they were Democrats like Harry Truman and John Kennedy.

Think of Truman. That man had to tell his tired countrymen that the fight wasn't over, that Europe must be saved from starvation and Greece from communism. What a challenge history handed him! But "Little Harry" looked history in the eye and said: You've met your match.

The Truman Administration—with solid support of the Republican party—rebuilt Europe. Truman met the Soviet threat, stood up to their challenge in northern Iran, and led the international effort to resist North Korea's invasion of the South.

He did all this with the great bipartisan consensus behind him.

The consensus held as well for the Republican Eisenhower. Armed with his knowledge of the reality of war, and with his training here on the banks of the Hudson, Ike practiced strength, and he brought us peace.

The young John Kennedy saw the new frontiers that needed to be challenged on earth and in space. He understood the crucial importance of military strength—he too had been "tempered by war" and "disciplined by a cold and bitter peace." Those, of course, are his words. The day Kennedy was inaugurated, Theodore H. White said of the new President and his aides: These are the junior officers of World War II come to power.

Kennedy presided over a major build-up in our strategic and conventional military power. And having heightened our military strength, he was prepared to meet the Soviet threat when they put missiles in Cuba. He was also prepared to negotiate—and win—the first test ban treaty with the Soviets. And his Republican colleagues, disagreeing with him on a number of domestic matters, stood with him in his international goals.

From the '40s through the mid-'60s the great bipartisan consensus held. And our greatest work—the Marshall Plan, the saving of Greece, the healing of Europe, the understanding by the Soviets that recklessness on their part would not go unnoticed or unchallenged—all this was made possible.

But by the '70s the consensus had fractured—splintered—the center did not hold. The death of Kennedy, Vietnam, the lure of the old desire to once again leave the world and turn inward. The reasons would take another speech. The results are easier to detail.

It is true that the world had changed since the great bipartisan consensus was forged. The limits of our power were now more clearly defined, as were the limits of others. Even the map had changed; the lines had been moved and moved again. But for all these changes, the logic of, and the principles behind, the great bipartisan consensus endured.

The logic still applies. The principles that served as the bedrock of the consensus endure.

But there are some today who have abandoned those principles and turned their backs on the legacy of Truman and Kennedy and Senators such as Scoop Jackson.

The liberal elite do not understand—they never understood—the common sense behind the consensus. They act as if they believe that strength is the preoccupation of bullies—as if they believe that our desire to remain strong is proof that we are the aggressor. They are so blinded by ideology that they cannot see what Americans have understood for 40 years: that peace flows from strength. And that America is a good country that can be trusted with strength.

I do not think they mean to do harm. I think they simply do not understand that reducing our defense will erode our security. Maybe they don't understand that simply pulling back on our global responsibilities, without thinking it through and preparing the ground, will make the world more dangerous. Maybe they don't understand the real world dangers arrayed against us and the other free nations of the world.

Maybe, in short, they don't understand what goes into the creation of peace and the prevention of war.

I'm sure they would claim it isn't so and they're all in favor of strong defense. They look the part, sober and measured in their gray suits, moving their hands on the Sunday talk shows with just the right amount of gravity and earnestness.

But what are we to think when they say they're for a strong defense but they oppose every new weapons system that would preserve the strength? They're against a space shield, against MX, against the 600-ship navy, against Midgetman, B-1, Stealth, against any increase whatsoever in the defense of the United States.

It's naive to think that if you don't spend money on defense, your competitors won't either. Across that ocean, General Secretary Gorbachev is emphasizing perestroika—internal restructuring—but let me tell you something: He isn't opposing every new Soviet military weapon system. Soviet military modernization is going forward.

And let me add something else: The Strategic Defense Initiative, which its opponents so love to hate, may well in fact prove to be the great population protector its supporters hope and believe. Through vigorous research let's find out if it will work. If it will work—and I think it will—we must deploy it.

We must be confident that those who will lead our country understand what it means to stand up to a challenge and meet our commitments. We must be confident that they will pursue negotiations with the Soviets realistically.

But much of the arms control elite criticized us when the Soviets left the negotiating table in 1983; they told us we had to chase after the Soviets and plead with them to come back. Well, we didn't; we waited, and did our work, and the Soviets came back. A historic arms agreement resulted.

The elite told us we would never get the Soviets to give up all their SS-20s; they said we'd never get them to accept intrusive verification. Indeed, they insisted on a freeze, locking in high Soviet levels with zero for the West.

Well, they were wrong. And where would we be if we had listened to their advice? Would we have an INF agreement that for the first time wipes out an entire class of missiles—and establishes the principle of asymmetry in which they take out approximately 1,600 warheads and we take out roughly 400? Would we have an agreement that creates unprecedented and previously unthinkable verification procedures? Would we be talking about a START agreement providing for 50 percent reductions, providing major reductions to equal numbers? Would the Soviets have been as likely to agree to withdraw from Afghanistan?

There is nothing more important than the answer to those questions. This is the future we are talking about; this is the peace of the world we are discussing.

Hitler faced an allied effort strong in its unity and clear in its purpose; Stalin faced a West strong in its unity and clear in its purpose; Khruschev faced an America strong in its unity and clear in its purpose. What will Gorbachev face in the 90's? A vigorous clear-sighted America animated by the enduring princples of Truman, Eisenhower, John Kenndey and Scoop Jackson? Or an

America distracted and divided by the "forgotten but not gone" policies of freeze, concede, and acquiesce?

We must see the world as it is, not as we might wish it to be. This is no time for the ivory tower; this is no time for Innocents Abroad.

We cannot wish away the Soviet Union as a competitor. But we can move with open eyes and clear purpose toward new agreements on conventional forces and chemical weapons, toward the resolution of regional conflicts and progress on human rights . . . looking hard at their deeds, and not just their pleasant words.

Fascinating forces are converging on the Warsaw Pact countries; this summer seems a time of unusual possibilities, perhaps even the beginning of profound change. We have just witnessed a remarkable change in power in Hungary and renewed ferment in Poland. The delicate task ahead is to encourage steps toward greater openness and personal freedom without provoking a backlash.

Nor can we wish away ominous regional developments like the proliferation of nuclear components, the stockpiling and use of chemical weapons, and the acquisition of ballistic missiles in the tinderboxes of the Middle East and South Asia. Unless something is done, it is just a matter of time before countries like Iran and Iraq have missiles that can deliver poison gas not just to each other but to the nations of Europe.

We must act now to prevent that nightmare from occurring—by joining together to deter the acquisition of such weapons and to penalize those who would supply them.

Finally, we cannot wish away the responsibility and burdens of world leadership. We can and should expect our allies to share more of the cost of paying for the common defense . . . but we cannot share the lead . . . because no other country is willing or able to take our place.

Case in point: the Persian Gulf. Because we led the way, 5 European navies today are helping us reduce the threat to shipping. A failure to lead would have resulted in paralysis and retreat.

Those who opposed our efforts to protect our interests in the Gulf—something 8 Presidents have regarded as vital—have abandoned the bipartisan postwar commonsense consensus of peace through strength. Can we be sure they will understand the need to meet our commitments today and negotiate wisely with our adversaries tomorrow?

The fact is the next President must build on the successes of the past eight years and be willing to recognize and deal with these challenges and more. The next President has a clear-out task: To inspire confidence with a coherent foreign policy; to engender respect with resolve; to keep the world safe not with vain dreams but with hard decisions.

And who will help him? You. For you are the strength we talk about, you are the resolve we show. You are the instruments of our foreign policy, and from what I see and hear, our future in this respect is in good hands.

So together we work, in unity and strength. And then there will be a greater chance for peace to flourish in the world, for freedom to spread, and for you—our young peace keepers—to never have to go out in battle, as we did, and see your friends never return.

These are big ambitions, but they are the only kind to have. And the only kind that make a difference and make an improvement in history, and the lives of man.

Thank you. It has been a pleasure and an honor.

TERRORISM AND THE UPCOMING OLYMPICS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. BROOMFIELD. Mr. Speaker, I would like to share with my colleagues an informative article concerning the upcoming Olympic games in Korea and the possibility of North Korean-backed terrorism during the Olympics. While all of us wish the Government of South Korea good luck in its massive preparations for the Seoul Olympics, we are concerned about the possibility of more terrorism directed against South Korea by the North Koreans, or by international terrorist groups acting on behalf of North Korea.

Further terrorism against South Korea by the North would only worsen the already terrible international reputation Kim Il Sung has created for his country. The upcoming Olympics would in fact have been a tremendous opportunity for the North Korean Government to pursue peace and reconciliation by accepting Seoul's offer, already endorsed by the International Olympic Committee, to participate by hosting some of the events. Let us hope that there is still time for the government in the North to reconsider.

Given the past track record of the North Korean Government in supporting and carrying out international terrorism, further acts of violence against South Korea are likely. While I wish the Government of South Korea success in the upcoming games, I also encourage that government to be watchful of North Korean backed plots to disrupt those games.

I commend the following Wall Street Journal article to my colleagues.

[From the Wall Street Journal, May 20, 1988]

GAME OF NERVES: IN EDGY SOUTH KOREA, THREAT OF TERRORISM HAUNTS THE OLYMPICS

(By John Walcott and Urban C. Lehner)

It sounds like a terrorist's dream. Iranians, Libyans, North Koreans and Palestinians can all find—assembled in one spot and before a global television audience—all of their greater and lesser satans. The Israelis will be there, along with the Kuwaitis, Iraqis and British, and, of course, the Americans.

Worse, the host is another prime target: South Korea—the hated rival of one of modern terrorism's founding fathers, the ruthless North Korean leader Kin Il Sung.

The occasion is the Olympic Games, that quadrennial celebration of human brotherhood through sport. This year's summer games may put brotherhood to the test.

Worried intelligence officials don't want to scare anyone away from the September games, knowing that doing so would just hand North Korea the propaganda victory it seeks. "At the moment, we hold no intelligence saying any of these groups is planning to do anything," says L. Paul Bremer, the State Department's ambassador-at-large for counterterrorism. He says that "the [South] Koreans have, to me, an impressive ability to run security. They're a disciplined society with a centralized intelligence apparatus."

KIM'S VOW

That didn't help last Nov. 29, when two North Korean agents blew up a South Korean airliner in flight, killing 115 people. Captured, one of the culprits acknowledged the attack was designed to frighten visitors away from Seoul. It was, in other words, an installment on a threat Mr. Kim had made two years ago that he "will not stand idly by and permit the holding of the 23rd Olympiad" in South Korea.

Some officials hope Mr. Kim will hold off because so many of his benefactors will be there. "The East is coming. The Third World is coming. They all want peaceful games," notes Samuel Pisar, a lawyer for the International Olympic Committee, "None of them will countenance any disturbances." But intelligence officials say nobody has much influence over the volatile Mr. Kim (the "Great Leader") and his unpredictable son and heir, Kim Jong II (the "Dear Leader"). The xenophobic Kims bitterly resent the way the games will generate attention and, probably, admiration for South Korea.

"A lot of effort was made to find economic and other levers that could restrain the North Koreans," one U.S. official says. "But we didn't find any. Even if the Soviets and the Chinese knew what Kim was up to, they couldn't make him stop." Seoul offered to let North Korea be the site of a few events, but Pyongyang spurned the offer, insisting it must be a co-host of any Korean Olympics.

HIRING SURROGATES

South Korea's counterterrorist forces, though among the world's best, are experienced mostly in stopping infiltrators from the North and choking domestic dissent. As a result, some U.S. officials think that if the North Koreans try to disrupt the games, they may subcontract the job to the terror underground. "It's a lot easier to get into South Korea from Tokyo or Hong Kong or Manila than from North Korea," notes Noel Koch, who worked closely with South Korea's military and intelligence agencies when he was the Pentagon's top counterterrorism official.

As it happens, the Olympics coincide with a recent and sharp surge in terrorist activity, from the Far East to Africa. And intelligence officials say Iran, Libya, Lebanese Shiite extremists, the PLO, and the notorious Palestinian plotter Abu Nidal have renewed terrorist operations this spring after an 18-month lull.

In this ignoble group, North Korea stand tall, both as practitioner and as teacher. Over the past 20 years, U.S. officials say, as many as 5,000 soldiers, guerrillas, hijackers and bombers, from two dozen countries, have been schooled and armed in North Korea or by its military advisers.

JAPANESE RED ARMY

One of the only known photographs of Abu Nidal was taken in North Korea. Receiving much of his education there was Abu Daoud, a Yasser Arafat aide who helped plan the massacre of Israeli athletes and coaches at the 1972 Munich Olympics. North Korea remains on friendly terms

with Libya and Syria and is one of Iran's major arms suppliers.

But the most likely troublemakers, experts agree, are members of the Japanese Red Army. Intelligence analysis from the U.S., South Korea and Japan fear that North Korea may be part of the reason for a sudden re-emergence of this eccentric terrorist relic of the 1960s.

The Japanese Red Army first appeared as a radical offshoot of the student unrest of the late 1960s, and its members quickly made common cause with fellow extremists in Europe and the Middle East. Their goal, they said, was a "simultaneously world revolution to destroy capitalism and imperialism." The group reached the height of its notoriety in 1972, when three members massacred 26 people at Israel's Lod airport. It then went underground and seemed dormant—until a troubling series of recent developments:

On May 10, Japanese police arrested Yasuhiro Shibata, who as a 16-year-old allegedly helped hijack a Japan Air Lines jet to North Korea in 1970. Officials say Mr. Shibata and a handful of other JRA members had whiled away most of the intervening years in Pyongyang, Japan's National Police Agency is questioning him about possible North Korean attacks on the Olypmics.

Italian police are searching for another JRA member, Junzo Okudaira, who they suspect set off a car bomb outside a USO club in Naples, Italy, last month, killing a U.S. servicewoman and four Italians. Italian authorities also are checking unconfirmed sightings of Fusako Shigenobu, a former Tokyo barmaid and the widow of one of the perpetrators of the Lod airport massacre, who heads a JRA cell in Lebanon's Bekaa Valley.

Another alleged JRA member. Yu Kikumura, was arrested on the New Jersey Turnpike April 13, carrying three homemade bombs and a map of New York City with pinholes marking, among other points of interest, a USO club in midtown Manhattan. U.S. intelligence and law-enforcement officials say Mr. Kikumura spent about a month in the U.S. before he was arrested. His travels, one official says, "suggest he was servicing some sort of network here."

Japanese police arrested Osamu Maruoka, another alleged member of the JRA, near Tokyo's City Air Terminal last November. He had arrived in Japan from Hong Kong carrying a false passport and a ticket on a connecting flight to Seoul. Intelligence officials say Mr. Maruoka had been trying to set up a terrorist network in the Philippines.

Late last year, Bank Negara Malaysia, Malaysia's central bank, quietly warned the country's bankers that JRA terrorists may have been stashing explosives in safe-deposit boxes around the world. It said a large quantity of aging, unstable explosives, apparently planted in 1966, had been found in the Singapore branch of a Malaysian bank. Among those who might be authorized to open JRA safe-deposit boxes, the central bank said, were four names used by North Korean intelligence officers. They include Kim Kyon Hui and Kim Sung II—the agents who blew up Korean Air Lines Flight 858 last November.

The JRA sometimes appears to be as unstable as its aging explosives. It has used a variety of names, including the "Anti-Imperialist International Brigades" and the "Jihad Brigade." Its two major branches apparently have very little to do with each other. One is in Lebanon's Bekaa Valley, that melting pot of radical Palestinians, Iranians, Libyan and Syrian intelligence officers and Shiite terrorists. The other is in North Korea.

To the North Koreans, the choice of Seoul to be the host of the Olympic Games is an insult. It's easy to understand the sensitivity. The two Koreas, still technically at war, have been locked in a deadly economic, political, and military competition since their armed conflict ended in stalemate in 1953. Each is battling to be recognized, both at home and abroad, as the real Korea.

For Pyongyang, this battle isn't going well. South Korea has one of the world's fastest-growing economies. It is even carrying on a small but flourishing trade with its archenemy's supposed allies in China and Eastern Europe. It's military soon may be strong enough to deter aggression without the help of 39,000 American troops. North Korea, in contrast, remains an eccentric backwater that is hobbled by food shortages, can't pay its foreign debt and is on bad terms with almost everyone but a few other Third World countries.

The arrival of teams from some 160 lands to compete on South Korean soil, with as many as two billion people watching on television at times, will have a pro-found symbolic impact. "The Olympics," says Mr. Koch, the former Pentagon official, "will determine who won the Korean War."

CALEDONIA, MICHIGAN: 100 YEARS—CALEDONIA TOWNSHIP: 150 YEARS

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. HENRY. Mr. Speaker, beginning June 29, a week long celebration will be held in the village and township of Caledonia, MI to commemorate the 100th anniversary of the incorporation of the village and the 150th anniversary of the township's first settler.

In the 1830's, the main trail between Grand Rapids, Kalamazoo and Battle Creek was located in what was to become Caledonia Township. The first settler, Mrs. Asahel Kent, built a tavern-stagecoach stop. Renamed several times, the tavern over the years provided lodging to weary travelers, as well as being the social gathering place of the early settlers and the home of the first U.S. Post Office in the township.

One of West Michigan's most scenic rivers, the Thornapple, flows through the center of the township. During the 1800's the areas was thick with lush green forests. The fresh timber, combined with the power generated by the river influenced the building of numerous sawmills and gristmills throughout the township. Small villages, including the village of Caledonia, sprang up near the river.

The village, formerly known as Caledonia Station, was established after its founder, David Kinsey, platted the northern part of his farm and offered two lots to the man who would build the first house in Caledonia. Kinsey donated additional land which became the home of the United Brethern Church, the school district and town cemetery. Incorporated in 1888, the village has taken on its own identity and today lies in one of the fastest growing areas of Kent County.

By the 1930's, the timber had all but disappeared, and the gristmills and sawmills vanished, along with most of the settlements. Today, the township is primarily an agricultural community made up of some of Kent County's most productive farms. Typical of small farming communities, the close-knit residents gather at the local coffee shop on Saturday mornings to catch up on the town gossip, discuss the issues of the day, or perhaps boast of the outstanding Caledonia Elementary School, recently selected as one of the 20 Michigan exemplary elementary schools representing the State of Michigan in the Education Elementary School Recognition Program. Strong civic pride, an appreciation of their roots, as well as vibrant religious traditions binds this community together, Mr. Speaker.

Looking to the future, the 1990's promise to bring new growth to the township and village as residential and industrial developments creep closer to the township boundaries. The next century will see many changes to the community as we know it today. All this will come with a sense of accomplishment for what has passed and a feeling of promise and hope for the future.

Mr. Speaker and colleagues, please join with me in offering congratulations and best wishes to both the village of Caledonia and Caledonia Township as the citizens jointly celebrate their 100th and 150th birthdays.

A BRIDGE TO CHINA

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. FLORIO. Mr. Speaker, making the connection across the Pacific Ocean this summer in a transoceanic cultural bridge, two educators from New Jersey will travel to the People's Republic of China.

Richard Salimena, superintendent of the public schools in Waterford Township, NJ, and Earl Vassallo, will be part of a delegation sponsored by Mississippi State University.

Since 1986, a group of universities has been cooperating with the China/USA Teacher Education Consortium in arranging trips to the People's Republic of China. Through the joint efforts of these institutions, educators throughout the Nation have gained the opportunity to learn from a culture that offers an education in diversity and in ancient traditions.

These trips have been successful because they have brought together individuals from two cultures to meet on a common field and to learn from each other. Through the simplest of means, educators from our Nation share their time and knowledge with the people of the People's Republic of China.

Mr. Salimena and Mr. Vassalla are taking part in the construction of a bridge between our Nation and the People's Republic of China, two nations that have historically and practically been oceans apart.

What these individuals bring to the people of China is a story of how our people have matured and learned. Indeed, the journey to China itself is evidence of the continuing growth and educational maturity of our Nation.

In turn, these educators from New Jersey will bring back a cultural education and an appreciation for the traditions of a nation that few in the United States have come to see.

For those in the United States for whom the people of China are still invisible, Mr. Salimena and Mr. Vassallo will participate in a cultural exchange. That exchange promises to inform and to inspire.

In their travels throughout the provinces and in the capital of the People's Republic of China, I wish Mr. Salimena and Mr. Vassallo success in their journey and in their education.

LOUIS W. CHANEY: 37 YEARS OF SERVICE IN EDUCATION

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. GEPHARDT. Mr. Speaker, on June 30, 1988, Mr. Louis W. Chaney, superintendent of the Hillsboro R-3 School District in Hillsboro, MO, will retire after 37 years of continuous service in the field of education.

Mr. Chaney was born and raised in Puxico, MO. Upon the completion of his secondary school education, he studied at Missouri Baptist College and went on to receive his bachelor of arts degree at William Jewell College. His masters degree was subsequently earned at Washington University in St. Louis.

Mr. Chaney's teaching career began in 1953 at Piedmont High School. After 4 years of service as a math and history teacher, as well as a coach, he went on to perform similar duties at DeSota High School until 1961. Between 1961 and 1971 he served as principal of Potosi, and then Charleston High Schools. In 1971 he began the final phase of his career, as superintendent of Lincoln County R-2 schools. In 1975 he moved to his present post.

There is no more important service to our country than teaching our children. Mr. Chaney has dedicated his life to providing children with the most valuable asset one can attain in our society: an education. He has worked in education in several different capacities, first as a teacher and then as an administrator. No matter what the position, he has consistently worked toward providing his students with the best possible education. He has served his country in a manner that can neither be measured nor completely appreciated. Without dedicated educators like Mr. Chaney, we must ask ourselves where would we be as individuals or as a society.

I commend you, Mr. Chaney, and join the entire Hillsboro school district in wishing you the best in your retirement. Thank you for your invaluable service to the State of Missouri.

CRUSADE FOR CHILDREN 35TH ANNIVERSARY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. MAZZOLI. Mr. Speaker, I rise to honor the many organizers, contributors, and citizens in my home district of Louisville and Jefferson County, KY, who this weekend will be observing the 35th anniversary of the WHAS Crusade for Children.

The crusade helps raise funds for physically and mentally handicapped children in more than 60 counties in Kentucky and southern Indiana. Nearly $30 million has been raised throughout the crusade's history, with almost every year better than the last.

But, as the name suggests, the crusade is more than just a mere telethon or fund-raising program to help crippled children. Over the years it has become a very important part of communities throughout Kentucky and southern Indiana. This annual broadcast event signals only the culmination of a variety of year-round fundraising activities conducted by churches, industries, employee groups, and individuals.

The list of grant recipients to which the crusade has provided assistance—hospitals, clinics, universities, schools—for equipment and hundreds of innovative programs is lengthy. In fact, the crusade has directly affected the lives of more than 2 million kids. But, it has really touched us all.

The people of WHAS-TV and radio have been the proud sponsors of the crusade these many years. And, the success they have nurtured is the result of their commitment of energy and devotion. But, these successes could not have been achieved had it not been for the efforts of scores of individuals and groups who have embraced the spirit of the crusade. Particularly, the almost 200 volunteer fire departments who last year accounted for about half of the $2.5 million raised.

It is hard to believe that the crusade has been with us for 35 years now. It is such a part of Louisville and Jefferson County, as are the members of the WHAS family—past and present—who have become so familiar to all of us. This community owes them a great deal of thanks.

I consider myself fortunate to serve so many people who selflessly devote their time and talents to the care and treatment of handicapped children.

So, on the eve of the 35th WHAS Crusade for Children, I offer my congratulations and thanks to Bud Harbsmeier, crusade executive director, and all of his compatriots for a job well done. I wish the Crusade for Children many, many years of continued success.

STEWART B. McKINNEY HOMELESS HOUSING ASSISTANCE BLOCK GRANT ACT

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. RIDGE. Mr. Speaker, today I am introducing a bill that will better ensure that the modest Federal share of homeless assistance funds are used in the most efficient and direct manner possible. With the assistance of my able colleague from New Jersey, Mrs. ROUKEMA, we have developed a bill that responds to the cries of experienced homeless providers from across the country for flexibility to use homeless funds to meet their unique needs and to complement existing local and State homeless programs.

Our bill would consolidate the three programs under the Banking Committee's jurisdiction, 257.8 million dollars worth, into one block grant using the current Community Development Block Grant formula with 80 percent of the funds designated for entitlement communities and 20 percent designated for distribution to the States.

I was proud to be a cosponsor and relentless supporter of the first Stewart B. McKinney Homeless Assistance Act last year. During the process of developing the bill, however, it became clear that we were in the process of developing a maze of different programs—all with arbitrarily set funding levels. My concern grew into consternation when, upon meeting with providers in my district, I realized that in most communities the established funding levels did not match their needs. In other words, we had too much money available in some areas and too little in others.

Second, I found that providers who had been serving the homeless long before the Congress even began discussing the programs, were cut out in favor of professional grant writers. Since there were so many different programs with a variety of applications, requirements and deadlines, only the well-connected survived. As a result, new, inexperienced providers were learning the ropes of homeless assistance while those best equipped continued to scrape by unassisted.

Many communities found themselves making applications for assistance to fill needs already being met, while other needs continued to go unmet.

The Federal Government cannot and should not determine how best to serve the homeless in a given community. With our bill, each community would develop their own comprehensive homeless assistance plan and then tailor the Federal money to best suit their individualized needs and existing infrastructure and services. All the programs in the original McKinney Act would continue as eligible activities, but the communities would have the flexibility to choose among those activities. Furthermore, the Federal money would complement, not replace, existing funds committed at the State or local level.

Every witness who testified in January on the effectiveness of the McKinney Act indicated support for the block grant approach. The reception from the League of Cities, the National association of Counties, the National Governor's Association, and the Council of State Community Affairs Agencies has been very favorable.

I ask that my colleagues consider the alternatives—a flexible, responsive block grant to complement local programs or the establishment of a new Federal bureaucracy. We must act before the cycle of program dependency makes the choice much too difficult.

H.R. 4717

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. DREIER of California. Mr. Speaker, today, I am pleased to introduce H.R. 4717 legislation which would promote savings in the Department of Defense by mandating the implementation of Office of Management and Budget [OMB] Circular A-76 comparisons for specific in-house functions. Circular A-76 is the executive branch policy which requires Federal agencies to procure commercial services from private contractors when a cost comparison shows that the same quality services can be provided at less cost.

Last year, I commissioned a GAO report on Federal productivity entitled "DOD Functions With Savings Potential From Private Sector Cost Comparisons." In this report, it was found that A-76 cost comparisons and contracting out reduced costs on almost every occasion in nearly every aspect of DOD work. The purpose of this legislation is to require the Secretary of Defense to complete cost comparisons within 2 years for all automated data processing and data entry functions. It also requires contracting out of such functions in cases in which cost savings would result.

Circular A-76 has gone a long way in exposing the rising expenses which are being amassed by Federal agencies. However, the cost analyses which are required by this directive have not forced the independent agencies to conduct wholesale or timely investigations. Instead, department after department has relegated the cost comparisons to a matter of secondary importance or ignored the regulation completely. This inability to control costs is partly responsible for the $148 billion Federal deficit this year.

In the past, according to a GAO study, A-76 cost comparisons have identified 8,045 staff year reductions in DOD activities. In the area of data entry, an estimated savings rate of 28 percent was established from past A-76 cost comparisons. Currently, there are over 400 staff years remaining to be studied. An estimated savings rate of 14 percent was established for automated data processing services. However, there are still 14,127 staff years remaining to be studied. My legislation would address this situation and yield savings in the millions of dollars.

Circular A-76 is not going to bring the Federal budget out of the red, but it is a start. With this legislation we can send a signal to the agencies that they must improve their overall efficiency or at least begin streamlining certain operations.

Congress, with recommendations from such entities as the Grace Commission and several public policy institutes, has identified many areas where cost cutting measures could be enacted. Although progress on these recommendations has been slow, this is exactly where budget tightening should start. The Federal Government must be run as responsibly and efficiently as any large corporation. Taxpayers, who have the same role as investors, have demanded an effective response to cutting wasteful spending from their investment, the U.S. Government. There is no better opportunity to take decisive budget cutting action than in this vast area where tremendous savings potential has been proven. I urge my colleagues to join in our efforts by cosponsoring H.R. 4717.

IN HONOR OF NORMA GONZALES

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. LEVINE of California. Mr. Speaker, I rise today to honor Norma Gonzales as she concludes her 1987-88 term of office as president of the Santa Monica Chamber of Commerce. I have had the opportunity to work with Norma on a variety of issues of mutual concern in my 27th congressional district and have always appreciated her insight and professionalism. Norma has done a spectacular job as the first woman president and the business community has certainly benefited from all of her accomplishments.

Norma Gonzales was born in Mexico and came to the United States late in 1949 to live with an older brother. She attended night school to learn English and became a naturalized citizen in 1956. She continued her education at night to obtain a BS degree from Pepperdine University in 1973. She started her career as a secretary, bookkeeper and bilingual translator with Bank of America before joining the Southern California Gas Co. Here she started as a secretary in the accounting department in 1953 and was promoted to a supervisory position in 1957. In her tenure she has served in various management positions in the gas measurement, personnel, customer services and public affairs departments. Since 1982 Norma has held the position of district manager of the Southern California Gas Co.

Norma Gonzales has been involved in a myriad of civic and public service activities throughout her career. She is very generous with her time and energy and has received special recognition for many of her endeavors. Norma was 1986 YWCA Woman of the Year, and received the "Industry Award" for volunteer services, West Area Opportunity Center in 1985. She has appeared twice on Hispanic channel 34 and was a past lecturer at Town Hall Executive Breakfast Institute. She was the keynote speaker for the adult education graduating class at Santa Monica College in 1985 and presided as mistress of ceremony at the Martin Luther King Celebration in Santa Monica in 1987.

Norma Gonzales has been affiliated with numerous organizations ranging from the Santa Monica Chamber of Commerce to the Salvation Army of Santa Monica advisory board. She has served as president of the Santa Monica College Associates and as a member of the college advisory board, and was also appointed by the State Chancellor to the California Community Colleges Advisory Committee on Vocational Programs and Services to the Disadvantaged and Handicapped. Norma is on the board of directors of the West Los Angeles College Foundation, United Way Board of Directors for the Western Region, member of the Corporate Allocations Committee and a member of the Hispanic Volunteer Council. She is the former chair and current Catholic co-chair of the National Conference of Christians and Jews, a member of the board of directors of the Venice Family Clinic and of the Navy League.

Throughout all her endeavors Norma has enjoyed the support and love of her husband, Paul, and their children, Gregory and Rosanne.

It is with great pleasure that I ask my colleagues in the U.S. House of Representatives to join me in saluting this fine American for a job well done.

CONGRESSIONAL TRIBUTE TO RAY CUNNINGHAM OF LOS ANGELES

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. DIXON. Mr. Speaker, it is with great pride and admiration that I rise to recognize the life-time achievements of a dedicated public servant, and tireless community activist, Mrs. Ray B. Cunningham. On June 30, 1988, after 15 years of service, Ray will retire from her post as Mayor Tom Bradley's south-central Los Angeles area coordinator. Mr. Speak-

er, she will be sorely missed.

Ray Cunningham has helped to shape the political dynamic in Los Angeles. She began her professional career in 1951, when she joined the staff of the Los Angeles Police Department [LAPD]. There she met Tom Bradley, who was at that time an LAPD police lieutenant. When Mr. Bradley left the LAPD to pursue his quest to become the first black person elected to the Los Angeles City Council, Ray was enlisted to serve as his campaign secretary. Her brilliant organizational skills, and the innovative campaign tactics she employed contributed to Tom Bradley's successful election to the city council in 1963. In 1969, when Mr. Bradley made his first unsuccessful run for the mayoralty of Los Angeles, Ray's organizational and tactical genius became known citywide. From that point on, Ray was known as Los Angeles' premier organizer and political tactician.

In 1973, when Mr. Bradley won the mayor's post, he asked Ray to serve in his administration as south-central Los Angeles area coordinator. Ray brought enthusiasm and compassion to the service-oriented position, gaining a well-deserved reputation as a highly effective people's advocate in city hall. Dedication and total commitment became her hallmarks.

Ray has also contributed her time, talents, and finances to community service projects and organizations. As the wife of the late superior court judge, David Cunningham, she has been an active member of the Wives of Bench and Bar. She has also served as coordinator for the fund-raising campaigns of various charities, including the Brotherhood Crusade, the 28th Street/Crenshaw YMCA, and the United Negro College Fund.

Mr. Speaker, Ray Cunningham has touched the lives of countless Angelenos during her illustrious career in public service. Her years of commitment to her job and the Los Angeles community should not go unrecognized. Now, on the eve of her retirement, I ask my colleagues in the House of Representatives to join me in congratulating Ray on her accomplishments, and wish her, and her children Rachelle, David and Dana much happiness in their futures.

THE 25TH ANNIVERSARY OF THE ORGANIZATION OF AFRICAN UNITY

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. DYMALLY. Mr. Speaker, I am pleased to submit for the CONGRESSIONAL RECORD a statement of Bashorun M.K.O. Abiola of Nigeria, on the occasion of the 25th anniversary of the founding of the Organization of African Unity, in Washington, DC:

THE AFRICAN CONDITION AND PAN-AFRICAN UNITY: THE ROLE OF BLACK AMERICANS

I am delighted and honored to be invited to address you this evening on this auspicious occasion of the twenty-fifth anniversary of the founding of the Organization of African Unity. My task shall be three fold: To analyze the African condition, to examine the role of black Americans in Africa's economic development, and finally to proffer my own views on how we can address the African condition. When African heads of state met in 1963 to ratify the OAU charter they were under no illusions that the path to pan African unity was going to be a smooth one indeed. Nor were they under the illusion that the organization was going to offer a panacea to Africa's seemingly intractable problems.

For those of you who are students of African political history, you will recall that what became the final charter of the OAU was the product of a compromise between two major ideological and philosophical blocks which were euphemistically called the Cassablanca and Monrovia groups. The Cassablanca group had become associated with an ideological perspective which called for a radical approach to pan-Africanism. Africa's erstwhile leaders such as Kwame Nkrumah of Ghana, Modebo Keita of Mali, Gamel Abdel Nasser of Egypt and Sekou Toure of Guinea had taken the position that the path to true independence for Africa must be preceded by a strategy which placed a premium on political unification of the entire continent. In other words, the nascent African states were to surrender their individual sovereignty to the larger objective of a continental government. They saw this as a precursor of greater things to come, such as integrated economic planning, a common defense strategy, and a common foreign policy for Africa. Nkrumah had warned that—

"I can see no security for African states unless African leaders, like ourselves, have realized beyond all doubt that salvation for Africa lies in unity—for in unity lies strength and as I see it, African states must unite or sell themselves out to imperialist and colonialist exploiters for a mess of pottage, or disintegrate individually."

How ominous a warning!

The Monrovia group had taken a different if less ambitious philosophical approach toward the issue of pan African unity. While committed to African unity. It sought to place emphasis on economic associations and structures which did not violate the sanctity of the sovereignty of individual states.

In spite of these differences in approach, the imperatives of African unity were so overriding that the two groups reconciled their differences, and in the spirit of the African traditional heritage of political consensus, the OAU was born. It was an eloquent testimony to the fact that "where there is a will, there is a way." It was also a tribute to the genius of the leadership skills of the founding fathers of the organization that despite the imperfections of the charter, that at the very least the African Continent needed a supra-structural organization, one which could provide avenues for the discussion of and perhaps the solutions to the same problems.

As we take a glimpse into the history and celebrate this occasion, we must seize the opportunity to indulge in a critical introspection of the African condition, as we get ready to march into the twenty first century. This should also be an occasion for frankness and a no-holds-barred discussion. If for no other reason, we should realize that the solution to Africa's problems must come through the collective efforts of peoples of Africa and the African diaspora.

I hope that thus far, that I have not given the impression that I have adopted a narrow vision of pan African unity by discussing it in the context of the African Continent alone. We cannot ignore the historical fact that the architects of pan-Africanism were the giants and the visionaries of the twentieth century in the likes of W.E. Dubois, Marcus Garvey, Henry Sylvester Williams and George Padmore. I hope to return to their vision of a trans-continental unity later on in this presentation as I address the challenges that face all of us in the coming years.

THE AFRICAN CONDITION

The African condition is replete with paradoxes; these are paradoxes that need not be. It is a continent richly endowed with human and mineral resources, yet at the bottom wrung of economic development, by whatever indicators we choose to offer our prognosis. It is a continent that produces what it does not consume and consumes what it does not produce. It is a continent which is the cradle of mankind and yet the least habitable for mankind due to environmental and man-made conditions. It remains marginal in the geo-political and economic power play in the global arena. The continent is still wracked by incessant political turmoil at proportions and frequencies that militate against human and material development. The balkanization of Africa into fifty odd states remains an ever present obstacle to national integration and a pan African unity. I submit that the issue of Africa's fragmentation into these liliputian entities presents Africa with one of its major challenges. We really cannot overemphasize the magnitude of this problem as we engage in our festivities today.

I have engaged in the aforementioned analysis not from the perspective of a pessimist or that of a detached observer. I approach this from the perspective that we cannot begin to engage in an appropriate discourse of how to overcome the myriad of socio-political and economic problems of Africa unless we, in a forthright manner, intelectually and psychologically predispose ourselves to meaningful diagnosis of what these problems are. We must as of necessity delineate those problems that are externally induced and those that are masterminded from within. Otherwise, we may continually indulge in an orgy of scapegoating that does not lead us anywhere.

At this juncture I would like to focus my attention on sectoral analysis of the African condition after which I will proceed to offer my own humble perspectives on what must be done to alleviate the untold miseries which have befallen millions of Africans presently. I do not intend to rehearse the dismal conditions in which we presently find ourselves; since these are issues which you all know too well. My preliminary remarks are intended to put in perspective my subsequent comments. I wish to characterize these sectoral issues as crises. This choice of words is intended to amplify the urgency of these issues rather than to set an alarm in motion.

THE CRISIS OF POLITICAL DEVELOPMENT

In an attempt to stress the urgency of the crisis, Kwame Nkrumah admonished his African compatriots to "seek ye first the political kingdom". Though laden with biblical overtones, it is an admonition that has ominous dimensions and one that has to be taken seriously. In the same vein, Ali Mazrui has aptly observed, "a majority of post-colonial African countries hover in a balancing act between the chasm of anarchy and the brink of tyranny. The contradictions of colonial rule and the destruction of Africa's own indigenous structures have left the continent a prey of the forces of concentration of power, on one side, and the forces of disintegration of authority, on the other." Put differently, the prevalent political climate in the continent is one that does not encourage the development of enduring political culture and institutions, nor is it conducive to the development of the economic and social structures. This climate does not lend itself to the building and nurturing of politcal values of selfless public service and productivity. Most public institutions are dysfunctional and in a state of atrophy. We are yet to deal in any meaningful way with the fissiparious tendencies of African politics which tend to manifest themselves in religious, regional or ethnic dimensions with concomitant destructive outcomes.

We must therefore seek ways and means to arrest the situation which I have referred to above. We must seriously address ourselves to finding alternative paths to this malaise. These alternative paths must include the issues of political leadership, new political values, alternative political structures/institutions, etc. All this is to say that the imperatives of the African condition demand that we create an enduring political environment which will allow for internal development while at the same time providing a conducive climate for attracting positive foreign investment. This is part of my challenge to all of us.

THE ECONOMIC CRISIS

Within the rubric of Africa's economic crisis are a host of causally related issues. It must include the following: The food crisis, the debt crisis, population explosion, infrastructural decay and slow growth of the economy to mention just a few. An analysis of the aforementioned suggests that the problems are multi-dimensional in scope and ramifications. They are as structural as they are a reflection of the paucity of policy options and strategies. In other words, the economic crisis must have a multi-faceted approach which understands the relationships between domestic economies and the global economy, that is, the interconnections between various sectors of the political, social, and economic fabric of the African society. The challenge, therefore, is to undertake a meaningful analysis of these subsectors with a view of re-routing the present course which leads us nowhere but to an economic abyss.

Let us examine the debt issue which is fast becoming an intractable problem. Africa's foreign debts have grown exponentially in the last decade. Besides the enormity of this debt (measured in raw figures and the ratio of the debt to the total revenues). There is also the question of the debt service burden which has created a serious drain on the resources of most African states. Even the much vaunted middle income countries are not immune to this problem. It is quite obvious to most of us that this problem cannot be allowed to continue unabated. There is a famous English addage which instructs us that "he who pays the piper, calls the tune." This addage suggests to us that unless the debt crisis is alleviated, Africa will remain hostage to its external creditors with the attendant implication of making a mockery of the precarious sovereignty which we presently enjoy.

POPULATION ISSUE

In the same vein, we cannot underestimate the enormity of the population explosion which is wreaking havoc on the limited resources and fragile infrastructure of most African states. While the population problem does not account for most of Africa's problems, it does, nevertheless, compound an already strained economy. The population problem is very much related to the food crisis. This is a fundamental issue. As a matter of fact, it is a matter of survival. The food crisis is an offspring of manmade and ecological factors. I see the food crisis as one of those paradoxes that need not be. Available evidence suggests that even with Africa's environmental vicissitudes, the problem is largely a function of misplaced priorities and shortsightedness on the part of many African states. This trend towards dependency on external sources to feed Africa's populations, starvation and malnutrition can and must be reversed immediately. Time is not an ally of Africa. We obviously do not have the luxury of procrastination or inaction. I do not wish to imply that the environment does not contribute its own share to the food crisis. Even then, those ecological factors that can be alleviated through education, governmental actions and other means need not be delayed.

REFUGEE PROBLEM

Any discussion on the food crisis cannot receive adequate analysis if we do not concomitantly address the refugee problem in Africa. The chilling fact that Africa has nearly half of the words' refugees cries for a concerted effort on the part of citizens of Africa and the world to seek immediate solutions while there is still time to act. The situation calls for Africa's leaders to redress the human causes of the refugee problem. While conceding that natural disasters have contributed to the refugee problem, I dare say that we can go a long way toward alleviating this human misery if only the leaders of African states can learn to live in peace with one another; i.e. in an environment that does not resort to war to settle disputes amongst brothers and sisters. The scope of the task that lies ahead should make it obvious that the present course must not continue. It does not make sense to me that African states are pre-occupied with conflicts that drain the limited resources available for economic and social development. It is mind boggling that we should engage in senseless wars with weapons which we do not even produce. Such is the nature of our predicament.

THE SOCIAL CRISIS

Perhaps at the heart of the socio-cultural crisis is the need to decolonize the African mind and stir it toward the direction of re-Africanisation and disalienation. I sart from the premise that one of the factors responsible for Africa's dependency on the West is the spectre of cultural alienation by those Africans who are in a position to direct the course of affairs in the continent and in the diaspora. What will it mean in concrete terms? Put in the context of the African diaspora in general, it is becoming fashionable to disassociate ourselves from our African heritage. We must come to accept who we are with pride and aplomb. You may wish to ask what is the relevance of this admonition in the scheme of things? It is paramount that we find the solutions to our world-wide predicament within ourselves. It is imperative that for our brothers and sisters in the Americas that they anchor their essence in their African heritage. It is an inescapeable reality. For the Africans in the continent, it is also an imperative that we eschew our tendency towards westernization at all cost. What is required then is a cultural revolution of the mind by Africans in and outside the diaspora; to commit themselves to a revival of the African spirit and personality which will embolden us to believe that we have the where-withal to surmount the challenges which we currently have to contend with. We must heed the admonitions of our erstwhile predecessors such as Edward Blyden, W.E. Dubois, Kwame Nkrumah, George Padmore, Marcus Garvey, and Aime Cesaire that we must undo the perniciousness of cultural imperialism which continues to stand in the way of our self fulfillment.

To this end, we must address ourselves to the relevance and meaning of the education which we acquire and consequently transmit to the younger generation of Africans. We should ask ourselves whether the present education which we receive aids or abets the self fulfilment which I have referred to earlier. On this same issue Edward Blyden declared as far back as 1818 in his inaugral address as president of Liberia College that—

"The college is only a machine, an instrument to assist in carrying forward our regular work-devised not only for intellectual ends, but for social purposes, for religious duty, for patriotic aims, for racial development; and when as an instrument; as a means, it fails, for any reason whatever, to fulfill its legitimate functions, it is the duty, as well as the the interest of the country, to see that it is stimulated into healthful activity; or, if this is impossible, to see that it is set aside as a pernicious obstruction."

These words are as relevant today as they were when they were spoken over a hundred years ago.

We must undertake to cultivate a culture of productivity rather than a culture of consumption; a culture of self sustenance rather than a culture of dependency; a culture of selfless devotion to the service of the common good rather than a penchant for individual aggrandizement. These are not novel attributes; for they represent the essence of the African personality to which we must commit to revive and nurture. It is in this spirit that we enhance the symbiotic existence among the peoples of African descent throughout the universe.

I wish to return to one of the major themes of this paper which is to examine the role of African-Americans in pan-African unity and African economic development in the coming decades. As a matter of historical fact, the idea of pan African unity at its most dynamic juncture was given immense impetus by W.E. Dubois. Through

his leadership of five pan-Africanist congresses, which reached a peak and point of historic excellence during the fifth Pan-Africanist Congress in Manchester, England, in 1945. His global approach to the plight of the people of the African Continent and in the African diaspora led to his assertion that the freedom of black Americans was inextricably linked with the freedom of Africa. As an extension of this perspective, he declared that—

"We American Negroes should know that, until Africa is free, the descendants of Africa the world over cannot escape their chains. The NAACP should therefore put in the forefront of its program the freedom of Africa in work and wage, education and health, and the complete abolition of the colonial system."

Dubois lit a torch which his disciples carried to greater heights throughout the African diaspora and in the African Continent to embark on a path of liberation and freedom.

We also must not forget the contributions of Marcus Garvey in giving further impetus to the idea of pan-African unity with a global perspective. The challenge was how to translate this noble aspiration to concrete reality. I must mention that the fire of African nationalism and the push toward decolonization which was lit by the pan-Africanist movement became responsible in part for posing in an ironic sense one of the major obstacles to the dream of a pan-African society. I am specifically referring to the issue of individual sovereignty, a matter which seems to have introverted the disposition of African leaders towards guarding their parochial interests all so jealously. If African states continue to treat the issue of individual sovereignty as an inviolate and sacred commodity, I am afraid that the goal of pan-African unity will become a romantic idea only to be relegated to a mere nostalgic concept. I believe that we owe it to the forefathers of pan-Africanism to prevent this phenomenon from becoming a reality.

I am, however, encouraged and elated by a series of events that have taken place in the United States especially in the last few years with regard to the role of black Americans in United States' foreign policy towards South Africa in particular and Africa in general. Thanks to the massive involvement of the masses of black America: the Congressional Black Caucus, and Trans-Africa, etc., it was possible to get through the United States Congress sanctions against the apartheid regime of South Africa, albeit toothless, yet symbolic.

THE ROLE OF BLACK AMERICANS

What must black Americans do to change the course of American foreign policy towards Africa in the coming years? It is a reality of history that Africans in the continent are estranged through the ignominous era of trans-Atlantic slavery. It is also a matter of historical reality that this physical estrangement cannot be undone. But it is my opinion that the barriers imposed by geography can be overcome and bridged through symbiotic endeavors if we heed the eloquent advice of the forefathers of the pan-Africanist movement that the fate of continental and non-continental Africans are inextricably bound spiritually and materially.

EMPOWERMENT OF BLACK AFRICANS

As residents and citizens of the world's major superpower with the wherewithal to build and destroy, the political, social, and economic empowerment of black Americans will augur well for the African Continent if the product of such empowerment translates into a new direction for American foreign policy toward Africa. My hope and belief is that this new direction will definitely help in improving the crisis which I discussed earlier. It will usher in an era in which the United States no longer treats African issues and concerns with insensitivity and sometimes contempt. It will usher in an era of evenhandedness in the policy options and actions of the U.S. towards Africa whether it be in the matter of economic development, technical assistance or the question of apartheid in South Africa. Political clout for black Americans will help to insure that issues and concerns dear to Africans are not subject to hypocritical and contradictory analysis.

I would like to use the issue of apartheid as an illustration of what I mean. The system of apartheid presents the world with one of its most heinous systems that should jolt the human conscience regardless of race, creed, color, nationality or national boundaries. Not only has the United States been extremely insensitive to the aspirations of millions of Africans and black Americans on the South African problem, but I dare say that the policy of constructive engagement is a misguided policy which does not coincide with the views of the rest of the world and especially those of the Africans. We are told that the United States does not support sanctions against the Pretoria regime on the grounds that they do not work and that they will bring untold hardships to the masses of the South Africans. But, I am reminded that sanctions have been applied by the U.S. in Cuba, Nicaragua, Panama, Poland, Iran, etc. It is this sort of contradiction which I alluded to earlier.

When we examine the entire gamut of American foreign policy toward Africa in historical context and note the paucity of such a policy, I become increasingly convinced that significant changes need to occur in a more positive direction. It also becomes paramountly clear that black Americans can and must exercise tremendous clout on behalf of Africa in the same manner that Jewish Americans exercise enormous, almost, veto power on matters affecting Israel. I see the makings of this clout in the political gains that have been made by black elected officials and the black electorate. These strides must be harnessed.

While still on this issue, I must add that the empowerment to which I refer can be enhanced and aided when African states themselves begin to seriously deal with the numerous crises which I discussed earlier. It will foster the symbiotic relationship which is so necessary to foster a mutually beneficial enterprise. A strong Africa can also use its clout to exercise influence on America on matters of major concerns to black America. In essence, what I am saying is that a weak Africa is of no significant value to black America. It bears repeating that the imperative of mutual self-interest cannot be overemphasized. I cannot say enough about this issue especially as the turn of the next century fast approaches.

The private sector in Africa is relatively underdeveloped. It is a sector that must shoulder the major responsibility of alleviating Africa's economic crisis. Events have proven that the concentration of the future of Africa in the public sector is very flawed. The public sector does not have the capacity nor the means to shoulder the enormous responsibility of economic development. This is an arena where the entrepreneurial skills and know-how of black Americans can be of invaluable benefit to African states. To this end, African states must adopt policies which aggressively encourage this participation in all facets of the economy; transmission of technical and professional skills and technological transfer to those areas of the socio-economic sector in most need.

Those people involved in the private sector must also embark on a program that similarily involves the badly needed entrepreneurial skills of black Americans in the solution of Africa's economic crisis.

If I have sounded rather blunt and somewhat abrasive, I crave your indulgence; for as I stated at the outset, we must take advantage of this occasion for introspection, to reevaluate our course of action and rededicate ourselves to play our individual and collective roles in improving the lot of our fellow Africans. The African past is replete with noble accomplishments and history, but we must be committed to bequeathing a future to the young generation of Africans which will certainly be more prosperous than ours.

CONCLUSION

In concluding, I would like to restate my personal views about the tasks and challenges that confront the African Continent and the diaspora. We need not delude ourselves about the complexity of our situation—those we inherited and those that are self-inflicted. The burden is heavy, the responsibilities are gigantuan and the solutions are tenuous and even elusive sometimes. I dare say also that some of the answers may lie outside our capacity to influence or control. However as an eternal optimist—not a naive one—we must create new realities within the limits of our capabilities; guided by unbounded dreams and aspirations in the context of the African personality.

Having said all these, I wish to suggest the following:

(a) That African states must rekindle the aspirations of forging a new political order; one which seeks to overcome the burden of Africa's fragmentation. This goal must transcend simple populist rhetoric of the yester-years. The masterminds of the Berlin conference are forging ahead toward European integration. It behooves us therefore to borrow a chapter from Europe. The survival of Africa in the coming decades depends a great deal on whether we heed the admonitions of Kwame Nkrumah which I cited earlier.

This option will require that African leaders must have the much needed vision and fortitude to understand the deleterious consequences of continuing to maintain the sanctity of present territorial borders and the sanctity of individual sovereignty.

(b) That the structure of the Organization of African Unity needs radical changes to

meet the challenges of the world in which we presently live in. The OAU continues to provide the skeletal avenues for a continental unity. It remains an indispensable body. However, in its present form, it is inadequate to provide the basis for political and economic integration; such as is the case with the European community.

(c) That we must begin to seriously deal with the language problem which has continued to exacerbate the perniciousness of mutually re-inforcing cleavages throughout the continent of Africa. I do not wish to discuss the details of this proposition.

(d) That a highly representative body of the black American community and the African Continent must set up a permanent body charged with the responsibility on an ongoing basis, to coordinate economic, social, political and cultural policies that are of mutual benefit. I might add that this proposition should as of necessity include all other areas of the African diaspora. In a sense, this body would then serve as a loose confederation which will help to bridge the gulf created by hundreds of years of physical estrangement.

(e) That Africa's debt crisis must be resolved with the immediacy which it deserves in order to avoid the potential of throwing an already embattled economy into a tail spin. It is also important that African states meet their international obligations to their creditors for the sake of maintaining credibility and solvency.

In closing, I would like to thank the organizers of this event for allowing me the privilege of addressing this assembly. Will you please join me and the rest of millions of Africans in and outside the continent in dedicating ourselves to creating a new world order in which all human beings regardless of race, creed, color, or nationality will be able to live in peace, harmony and prosperity. Long live Africa! Long live the rest of mankind!

TRIBUTE TO REV. STANISLAUS ZAWISTOWSKI ON THE 50TH ANNIVERSARY OF HIS ORDINATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. ROE. Mr. Speaker, on Sunday, June 12, 1988, residents of my Eighth Congressional District and the State of New Jersey will join the parish community of St. Paul's Church of Prospect Park, NJ, and Rev. Stanislaus Joseph Zawistowski in celebration of the 50th anniversary of his consecration into the sacrament of holy orders.

Mr. Speaker, the historical freedom of our Nation's people to worship freely and without fear has permitted, and even inspired, certain individuals to become great spiritual and community leaders throughout the years. These people are esteemed and long remembered for their devotion, good will and lasting achievements. This is the reason that I, and so many others in Prospect Park and its surrounding area feel fortunate to have the opportunity to express our appreciation to Rev. Stanislaus Joseph Zawistowski whose admirable dedication and deep allegiance to promulgating spiritual guidance, fellowship and unity in service to God have truly enriched our community, State and Nation.

Reverend Zawistowski has maintained the highest standards of excellence throughout his lifetime and we are pleased to share the pride of his family, many friends and parishioners in his distinguished accomplishments so generously applied to the betterment of our people. There is much that can be said of the love, affection and veneration with which Reverend Zawistowski is held by all who have had the privilege of knowing him.

Mr. Speaker, we are so proud to have Reverend Zawistowski with us in Prospect Park, NJ, where he has served as a Catholic priest for the past 36 years. For nearly 20 devoted and faithful years, Reverend Zawistowski has served as the pastor of St. Paul's Parish, and his spiritual leadership and guidance and his vigorous efforts on behalf of his community have made Prospect Park a better place to live.

In 1955 he opened St. Paul's School and was a driving force in the construction of a school building. In 1966, under Reverend Zawistowski's leadership, St. Paul's pariship constructed a new parish church, one of the largest and most beautiful buildings in its area. In addition, Father Zawistowski has exhibited his deep civic concern through his service as chaplain of the Haledon Fire Department and of the North Haledon Chapter of Unico, Inc.

Mr. Speaker, 1988 marks the golden jubilee of Reverend Zawistowski, a celebration of half a century since he was ordained a Roman Catholic priest by Bishop Thomas H. McLaughlin at the Cathedral of St. John the Baptist in Paterson, NJ, on June 11, 1938. This historic event will be celebrated by a mass of thanksgiving on Sunday, June 12, at St. Paul's Church, followed by a dinner in honor of his long and vital spiritual leadership and guidance for the parishioners of St. Paul's Church.

Mr. Speaker, I appreciate the opportunity to present this brief profile of a distinguished man of God who has dedicated his life to guiding others. Many people have been instilled with a sense of hope through his faithful and compelling leadership, and this outstanding quality is clearly reflected in the security and confidence his parishioners have in him. All who have known his generosity have been inspired by his devout service.

Mr. Speaker, as Reverend Zawistowski celebrates the 50th anniversary of his ordination to the priesthood, I know that you and all of our colleagues here in the Congress will want to join me in extending our warmest greetings and felicitations for the excellence of his service to the church, our Nation, and all people. We do indeed salute an esteemed pastor, exemplary clergyman and great American—Rev. Stanislaus Joseph Zawistowski, pastor of St. Paul's Church, Bloomfield, NJ.

CONCERN OVER CHEMICALS IN DRINKING WATER

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. LENT. Mr. Speaker, a number of my constituents in the Fourth Congressional District have expressed concern over the injection of fluoride chemicals into their drinking water. Since 1950, many community water supplies have been fluoridated because of studies which showed that mineral may help prevent tooth decay.

However, other less publicized studies have indicated that ingestion of high levels of fluoride by children may cause dental fluorosis. In its mild form, dental fluorisis is unsightly and in severe cases may cause teeth to turn brown, harden and crack. Even higher levels of fluoride can result in serious musculosketal complaints.

The Environmental Protection Agency [EPA] recently raised the maximum contaminant level of fluoride in public drinking water to 4 parts per million [ppm]—roughly three times higher than previous levels. This increase in the contaminant level prompted heated debate on the merits and shortcomings of fluoridation. Indeed, some of EPA's own scientists have been critical of their agency's action believing that the safety margin provided by a 4 ppm standard is "inadequate".

The issue of adding fluoride to public drinking water has been controversial for over 40 years since research began in 1945. Undoubtedly the debate will continue as critics and proponents of fluoridation analyze the dozens of studies on this issue and review new data which is always emerging. I submit the concerns of my constituents on Long Island to my colleagues for their consideration as the dispute over fluoridation continues. While not everyone may be in agreement regarding the need for fluoridation, we may certainly all concur on the need to protect the health and well-being of our citizens.

U.N. COMMISSION ON HUMAN RIGHTS SHOULD REJECT CUBA AND PANAMA

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. SMITH of Florida. Mr. Speaker, the United Nations has disgraced itself in an almost unprecedented manner. Last week, the United Nations Economic and Social Council voted to admit Cuba and Panama as mem-

bers of the Commission on Human Rights.

Cuban human rights is an oxymoron under the current regime. Castro continues to practice torture and other inhumane and degrading treatment of citizens, including secret trials, arbitrary imprisonment, and murder and brutality by the police.

The United Nations' action is even more venal when one takes into consideration that less than 4 months ago this same body voted to launch a long overdue investigation into Castro's human rights violations.

In Noriega's Panama, we are all too familiar with the willingness of this despot to neglect the well-being of the Panamanian people in order to remain in power.

The United Nations' action perpetuates the perception that the United Nations is incapable of producing objective and judicious legislation. It also raises troubling questions about the institutions adherence to the lofty principles on which it was established to protect and promote.

Mr. Speaker, the inclusion of Cuba and Panama to the U.N. Commission on Human Rights is a moral outrage to the good people of Cuba, Panama, and all people of the free world. I call on the United Nations to strip these two rogue dictators of its invitation to join the Human Rights Commission.

A CONGRESSIONAL SALUTE TO PATRICIA GOMEZ

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding woman in my district, Patricia Gomez. I am pleased to have the opportunity to express my appreciation for her efforts on behalf of the Downey area.

Pat Gomez has been a resident of the Downey community for more than 25 years, and active in many facets of community life. Her achievements in behalf of the community are almost too numerous to count, but I will attempt to enumerate her many accomplishments in this tribute which will be all too brief to do her justice.

Pat is currently the president of the Downey Chamber of Commerce, of which she has been a member for the last 8 years. In addition to that, she has served on the chamber board of directors for the last 5 years. In that time, she has held office as treasurer, vice president, and president-elect. She has chaired the chamber map committee, the membership committee, the special events committee, the golf tournament, and the Christmas parade committee. She has also served as a member of the business development committee and the redevelopment and zoning committee. She is currently serving as the chamber's representative to the Downey Coordinating Council.

Pat's accomplishments go far beyond her service in the chamber of commerce. She has been an active member of the Downey Historical Society, the Downey Charter Review Committee, the Optomist Club, Unico, the Quoto Club, the Downey Sister Cities Association, the Downey Rose Float Association, and the Downey Chapter of the American Cancer Society. For the past 3 years she has been a member of the board of Directors of the Rio Hondo Hospital, and was recently appointed to the board of directors of the Rancho Los Amigos Hospital Foundation. She also serves on four committees celebrating the 100th anniversary of the Rancho Los Amigos Hospital that include the chamber/hospital mixer, the citizens day committee, the Rives Mansion garden party, and the foundation charity ball.

Further, Pat has organized fashion shows for the Sister Cities Association, WASA [Women Against Sexual Abuse], the Quoto Club, and the American Cancer Society, helped organize more than 10 benefit golf tournaments for Unico, the Optomist Club, YMCA, and the Downey Chamber of Commerce, and helped organize four Miss Downey Pageants, providing contestants with hair and make-up services backstage. In 1987 she received the Volunteer-of-the-Year Award from the Downey Chapter of Rotary International and this year she received the Volunteer-of-the-Year Award from the Downey Coordinating Council.

Ms. Gomez has been a hairdresser for 26 years, and for the past 8 years has owned Johnny & Co., A Downey hairdressing firm. Pat's business and her community service have not gotten in the way of her family. She has performed volunteer work at her son Jeff's schools, including chairing special events programs at St. Marks School, and volunteering to do morning office work at Meadow Park School, spending two mornings a week for over 2 years telephoning parents of absent children as part of a safety program. Also, she was team mother for her son's YMCA team for 6 years, organizing football, soccer, baseball, and basketball activities, and she even got stuck in the dunk tank at the annual YMCA carnival.

Pat is a remarkable woman. Not many people can successfully juggle family, career, and community service, but Pat is the exception to that rule. My wife, Lee, joins me in extending our congratulations, and our gratitude, to Patricia Gomez, for the continuing contributions she has made to our community. We wish her and her son Jeff all the best in the years to come.

THE U.S. NEEDS THE TEA PROGRAM

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. HERGER. Mr. Speaker, recently, the Targeted Export Assistance Program, known as the TEA Program, has come under attack because of a recently released GAO report which criticized some aspects of the program's management. The Foreign Agricultural Service, which manages the program, acknowledges that lack of adequate staff resources has hampered their ability to prevent these kinds of problems.

However, some who are hostile to the program are seeking to use the GAO report as a means of drastically reducing funding or are calling for the outright elimination of TEA. Mr. Speaker, I strongly believe this would be a mistake.

At a time when our foreign trade deficit is the No. 1 economic concern of our Nation, does it make sense to eliminate or substantially undercut one of the most effective programs for promoting the sale of American agricultural goods overseas? I don't think so.

The TEA Program has dramatically improved the sales of American farm products overseas. For example, a TEA-sponsored promotion of American wines in Japan has led to a 56-percent increase in our wine sales there last year. The program helped triple United States raisin sales to Korea last season.

In countries where TEA promotions of U.S. peaches or fruit cocktail have been set up, sales of these products have increased 400 percent, while sales of the same products in countries where no TEA program has been launched have remained the same or actually fallen.

Mr. Speaker, the TEA Program is proving its worth by dramatically increasing the selling of American agricultural goods abroad. This can only help to reduce our $150 billion trade deficit. We should ensure that the program is well managed, but we should not use a few isolated criticisms of the program as an excuse to shutdown an effective means for promoting U.S. farm products overseas and protecting jobs in rural America.

TRIBUTE TO EDITH AND BENJAMIN ZIMMERMAN

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. BEILENSON. Mr. Speaker, I rise today to pay tribute to two of my old friends and constituents, Benjamin and Edith Zimmerman of Beverly Hills, CA. On June 5, 1988, they will be presented with the City of Peace Award by the Honorable Asher, Naim, Minister of Information at the Embassy of Israel, at the State of Israel Tribute Dinner in Los Angeles.

Benjamin and Edith were both born in the Ukraine and emigrated to the United States some 79 years ago. After B.J.'s graduation from the University of Maryland with a law degree, they were wed and began a 62-year union and business partnership that has included land development in Indianapolis, insurance and liquidation in Chicago, a brewery

business in Terre Haute and, most recently, real estate in California.

Since 1953, the Zimmermans have been active members of Mogen David Congregation and strong supporters of the Israel Orphans Home for Girls, Child Help USA for Abused Children, Jewish Homes for the Aging, and the Concern Foundation for Cancer Research.

They were blessed with two children and now have eight grandchildren and one great grandson.

I would like to join the Zimmerman's many friends and associates in conveying my heartfelt congratulations on this joyous occasion and my best wishes for many more years of success.

MAN OF THE YEAR WALLY PHILLIPS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. LIPINSKI. Mr. Speaker, I rise today to recognize an exemplary member of the Chicago community, Wally Phillips, who will be honored as Chicago's Back of the Yard Neighborhood Councils 1988 Man of the Year Award winner.

As an afternoon disc jockey at radio station WGN, Wally's special intimacy with his listeners and an intuitive knack for satisfying them has made him one of the most popular personalities in Chicago radio for the past three decades. A native of Portsmouth, OH, Wally attended a preparatory seminary of the Passionist Order in St. Louis, MO. After 2 years at this preparatory seminary, Wally joined his family in Cincinnati and attended school there until he left to enter the Air Force as a supply sergeant. When he was discharged from the Air Force, he found employment as an office clerk and took night courses at the Schuster-Martin School of Drama. With the help of some school demonstration tapes, he began his career as a disc jockey at Grand Rapids, MI's WJEF in July 1947. In 1950 he moved to radio station SCPO in Cincinnati where he garnered a large following with his wonderful wit. This began when he utilized the prerecorded State interviews which were the radio rage at the time. The DJ's were given a transcript, asked the proper question, and waited for the star's taped response. Wally, instead, changed the questions to make these responses humorous. This develped into an uncanny sense of timing and further use of recorded bits, words and sounds which he still uses as commentary, foils, exclamations, and comedic bits. The rating continued to climb when he joined Cincinnati's WLW In 1952. In the fall of 1956, he was recruited by WGN in Chicago and began 32 years of service to the Chicago communty.

During his years in Chicago he has been particularly involved with the Neediest Kids Christmas Fund and an example of community care and concern. I am sure my colleagues join me in commending and thanking Wally for his community involvement and congratulating him as he receives the Man of the Year Award.

RABBI PHILIP SCHROIT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. WAXMAN. Mr. Speaker, I am pleased to announce that Rabbi Philip Schroit, spiritual leader of B'nai David-Judea Congregation since its founding in 1948, is being honored on June 5, 1988. Rabbi Schroit is rightfully being recognized for 40 years of commitment and dedication to the congregation, to the Jewish community and to fellow citizens of every faith and background.

Rabbi Philip Schroit has been a determined, visionary and wise leader. Rabbi Schroit's major contributions have included the extensive youth program, intense community-wide efforts on behalf of the State of Israel and a key leadership role with the Jewish Federation-Council, the Bureau of Jewish Education and the School for the Retarded in West Adams.

Rabbi Schroit has unselfishly and devotedly shared his love for his beliefs, his insight, and his optimism with all who have had the fortunate opportunity to know him or work with him. Rabbi Schroit is admired and beloved by the people of Israel and Zionists around the world for his unstinting efforts for Medinat Yisrael.

It is with great pride that I ask my colleagues to rise in tribute to a very special individual, Rabbi Philip Schroit, upon his recognition by a very inspired and appreciative congregation. I ask my colleagues to join me in wishing Rabbi Schroit and his family good health and continued hatzlacha in their noble endeavors.

STEWART B. McKINNEY HOMELESS HOUSING ASSISTANCE BLOCK GRANT ACT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mrs. ROUKEMA. Mr. Speaker, today the gentleman from Pennsylvania [Mr. RIDGE] and I have introduced a bill to improve the flow of assistance to our Nation's homeless population. Our bill, which we will later offer as an amendment to the bill reauthorizing the McKinney Act, would combine three of the programs under the Banking Committee's jurisdiction into a homeless block grant.

A block grant would provide greater flexibility, would ease administration of the assistance, and would distribute that assistance more effectively to those most in need.

As the ranking minority member of the Subcommittee on Housing and Community Development, which has jurisdiction over the HUD homeless programs, I can report to the House that hearings before our subcommittee showed substantial support for the block grant approach. On January 26 of this year, our subcommittee heard from a wide variety of private and public providers of homeless assistance, and not one witness expressed opposition to a block grant. All were enthusiastic about moving in that direction.

The Ridge-Roukema amendment would combine the emergency shelter grants, the supplemental assistance for facilities to assist the homeless, and the Supportive Housing Demonstration Program into a single block grant. All activities now authorized under these programs would be eligible under the block grant. Other programs now authorized under the McKinney Act would be unaffected by our amendment.

Funds under the block grant would be distributed according to the current formula used for the community development block grant, with a slight variation which would tilt assistance more heavily to cities and urban counties, where we believe the homeless problem to be more severe. The CDBG formula, however, is a fair one, and it is one with which States and localities are familiar. Unfortunately, many needy areas are not now receiving money under the McKinney Act because administrators are unfamiliar with the new programs and the procedures to apply for funds. The Ridge-Roukema amendment will improve that.

The Housing Subcommittee is scheduled to mark up the reauthorization of the act shortly. Ours is a worthy approach which will be discussed at that time, and I wanted to bring it to the attention of our colleagues.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and

purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, June 2, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 3

9:30 a.m.
Joint Economic
To hold hearings on the employment-unemployment situation for May.
2359 Rayburn Building

JUNE 6

2:00 p.m.
Governmental Affairs
To hold hearings on issues concerning acquired immunodeficiency syndrome (AIDS).
SD-342

2:30 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Research, and General Legislation Subcommittee
To hold hearings on S. 2413, to establish regional centers for the commercial development of new industrial farm and forest products.
SR-332

JUNE 7

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Karen B. Phillips, of Virginia, to be a Member of the Interstate Commerce Commission.
SR-253

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

Governmental Affairs
To hold hearings on budget reform.
SD-342

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the nominations of Fowler C. West, of Texas, to be a Commissioner of the Commodity Futures Trading Commission, and William W. Erwin, of Indiana, to be a Member of the Board of Directors of the Farm Credit System Assistance Board.
SR-332

Foreign Relations
Business meeting, to consider S. Res. 426, to express the sense of the Senate that the seven major industrial nations of the world must take immediate action to protect the earth's stratospheric ozone layer, S. 2365, to authorize the release of 86 United States Information Agency films with respect to the Marshall Plan, S. Res. 408, to condemn the use of chemical weapons by Iraq and urge the President to continue applying diplomatic pressure to prevent their further use, and urge the Administration to step up efforts to achieve an international ban on chemical weapons, H.R. 4162, to make the International Organizations Immunities Act applicable to the Organization of Eastern Caribbean States, and pending nominations.
SD-419

10:30 a.m.
Rules and Administration
To hold hearings on S. 1786, to establish a series of six Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of President of the United States.
SR-301

JUNE 8

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on the impact of acid precipitation on coastal waters and the National Oceanic and Atmospheric Administration's sanctuary program.
SR-253

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1988 for export financing programs.
S-128, Capitol

Appropriations
Transportation and Related Agencies Subcommittee
Treasury, Postal Service, and General Government Subcommittee
To hold joint hearings to review interdiction efforts of the U.S. Coast Guard, U.S. Customs Service, Immigration and Naturalization Service, and the Department of the Treasury.
SD-192

Governmental Affairs
To resume hearings on issues concerning acquired immunodeficiency syndrome (AIDS).
SD-342

Judiciary
To hold hearings on S. 2033, to establish criminal penalties with respect to child pornography and the possession or sale of obscene matter.
SD-226

2:00 p.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review youth employment issues and related provisions of Title II of the Job Training Partnership Act.
SD-430

JUNE 9

9:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition and Investigations Subcommittee
Business meeting, to mark up proposed legislation to provide additional assistance for the Food Stamp program, Temporary Emergency Food Assistance program, child nutrition programs, work training program, and childcare for working families.
SR-332

Veterans' Affairs
To hold hearings on S. 2011, to increase the rate of VA compensation for veterans with service-connected disabilities and dependency and indemnity compensation for the survivors of certain disabled veterans, S. 1805, to protect certain pensions and other benefits of veterans and survivors of veterans who are entitled to damages in the case of "In re: 'Agent Orange' Product Liability Litigation," and to hold oversight hearings on activities of the Board of Veterans' Appeals, and related matters.
SR-418

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1737, to provide for the completion of the Colorado River Storage Project, S. 2102, to prohibit the licensing of certain facilities on portions of the Salmon and Snake Rivers in Idaho, and S. 2108, to authorize the Secretary of the Interior to conduct the Reclamation Groundwater Management and Technical Assistance Study.
SD-366

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

JUNE 10

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for migration refugee assistance, international narcotics control and anti-terrorism programs.
S-128, Capitol

JUNE 13

9:30 a.m.
Special on Aging
To hold hearings to examine certain problems and challenges surrounding the provision of health care to rural communities, and to review recommendations and innovative strategies to deal with these problems.
SD-628

JUNE 14

9:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.
S-128, Capitol

9:30 a.m.
Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on S. 1717, to assure uniformity in the exercise of regulatory jurisdiction pertaining to the transportation of natural gas and to clarify that the local transportation of natural gas by a distribution company is a matter within State jurisdiction and subject to regulation by state commissions.
SD-366

Joint Economic
Education and Health Subcommittee
To resume hearings to review the future of health care in America.
2359 Rayburn Building

JUNE 15

10:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition and Investigations Subcommittee
Business meeting, to resume markup of proposed legislation to provide additional assistance for the Food Stamp program, Temporary Emergency Food Assistance program, child nutrition programs, work training program, and childcare for working families.
SR-332

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

JUNE 16

9:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.
SD-192

9:30 a.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on H.R. 1173, to provide for certain restrictions on the use of lands within boundaries of national parks and monuments, and S. 927, to protect caves resources on Federal lands.
SD-366

Environment and Public Works
Hazardous Wastes and Toxic Substances Subcommittee
To hold hearings on applying the National Environmental Policy Act to U.S. activities involving international financial institutions.
SD-406

Governmental Affairs
To resume hearings on issues relative to alcoholism.
SD-342

Veterans' Affairs
To hold hearings on S. 2207, to authorize the Administrator of Veterans' Affairs to provide assistive simians and dogs to veterans who, by reason of quadriplegia, are entitled to disability compensation under laws administered by the Veterans' Administration, S. 2105, to extend for 4 years the authority of the VA to contract for drug and alcohol treatment and rehabilitation services in halfway houses and other certain community-based facilities, and S. 2294, to extend the authority of the VA to continue major health-care programs, and to revise and clarify VA authority to furnish certain health-care benefits, and to enhance VA authority to recruit and retain certain health-care personnel.
SR-418

Joint Economic
Education and Health Subcommittee
To resume hearings to review the future of health care in America.
2318 Rayburn Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Credit Subcommittee
To resume oversight hearings on the implementation of the Agricultural Credit Act (P.L. 100-233).
SR-332

JUNE 17

9:30 a.m.
Finance
Health Subcommittee
To resume hearings on S. 2305, to provide long-term respite care, adult day care, home care, and nursing home care for the elderly.
SD-215

JUNE 21

9:00 a.m.
Office of Technology Assessment
The Board, to meet to consider pending business.
Room to be announced

9:30 a.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2055, to designate certain National Forest System lands in Idaho for inclusion in the National Wilderness Preservation System, to prescribe certain management formulae for certain National Forest System lands, and to release other forest lands for multiple-use management.
SD-366

JUNE 22

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on proposed legislation authorizing funds for the U.S. Fire Administration of the Federal Emergency Management Agency.
SR-253

JUNE 23

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2221, to expand national telecommunications system for the benefit of the hearing impaired.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1643, to establish the Mississippi River National Heritage Corridor, S. 2018, to expand the boundaries of the Congaree Swamp National Monument, and to designate wilderness therein, and S. 2058, to authorize the establishment of the Charles Pinckney National Historic Site in South Carolina.
SD-366

Governmental Affairs
To resume hearings on S. 1504, to facilitate regulatory negotiation and other procedures to enhance the quality of regulations and foster communications between agencies and those affected by regulations.
SD-342

JUNE 24

9:30 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on Japanese patent policy.
SR-253

Special on Aging
To hold hearings on the Equal Employment Opportunity Commission enforcement of the Age Discrimination in Employment Act of 1967.
SD-628

JUNE 27

2:00 p.m.
Governmental Affairs
To resume hearings on issues relative to alcoholism.
SD-342

JUNE 28

9:30 a.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2165, to designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park Complex in the State of Washington.
SD-366

JUNE 29

10:00 a.m.
Governmental Affairs
To resume hearings on issues relative to alcoholism.
SD-342

JULY 11

9:30 a.m.
Special on Aging
To resume hearings to examine certain problems and challenges surrounding

the provision of health care to rural communities, and to review recommendations and innovative strategies to deal with these problems.

SD-628

JULY 14

10:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit Subcommittee

To resume oversight hearings on the implementation of the Agricultural Credit Act (P.L. 100-233).

SR-332