

Public Law 101-239
101st Congress

An Act

Dec. 19, 1989
[H.R. 3299]

To provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990.

Omnibus Budget
Reconciliation
Act of 1989.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1989".

SEC. 2. TABLE OF CONTENTS.

Title I—Agriculture and related programs.
Title II—Student loan and pension fiduciary amendments.
Title III—Regulatory agency fees.
Title IV—Civil service and postal service programs.
Title V—Veterans programs.
Title VI—Medicare, medicaid, maternal and child health, and other health provisions.
Title VII—Revenue provisions.
Title VIII—Human resource and income security provisions.
Title IX—Offshore oil pollution compensation fund.
Title X—Miscellaneous and technical Social Security Act amendments.
Title XI—Miscellaneous.

Agricultural
Reconciliation
Act of 1989.

TITLE I—AGRICULTURE AND RELATED PROGRAMS

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

7 USC 1421 note.

(a) **SHORT TITLE.**—This title may be cited as the "Agricultural Reconciliation Act of 1989".

(b) **TABLE OF CONTENTS.**—The table of contents is as follows:

Sec. 1001. Short title; table of contents.
Sec. 1002. Soybean, sunflower, and safflower planting program; feed grain acreage limitation program.
Sec. 1003. Reduction of deficiency payments for 1990 crops.
Sec. 1004. Repayment of advance deficiency payments.
Sec. 1005. Reduction of expenditures under the export enhancement program and for targeted export assistance.
Sec. 1006. Purchases of Financial Assistance Corporation stock by Farm Credit System institutions.
Sec. 1007. Adjustments in dairy price support program.

SEC. 1002. SOYBEAN, SUNFLOWER, AND SAFFLOWER PLANTING PROGRAM; FEED GRAIN ACREAGE LIMITATION PROGRAM.

(a) **PLANTING OF SOYBEANS, SUNFLOWERS, AND SAFFLOWERS ON PERMITTED ACREAGE.**—Effective only for the 1990 crops, subsection (e) of section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464(e)) is amended to read as follows:

"(e) Notwithstanding any other provision of this Act—

(1) by subsections (b) and (c) of section 6503 shall apply to payments for allotments for fiscal years beginning with fiscal year 1991, and

(2) by section 6504 shall apply to annual reports for fiscal years beginning with fiscal year 1991.

Subtitle D—Vaccine Compensation Technicals

SEC. 6601. VACCINE INJURY COMPENSATION TECHNICALS.

(a) **REFERENCE.**—Whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

(b) **PUBLICATION OF PROGRAM.**—Section 2110 (42 U.S.C. 300aa-10) is amended by adding at the end thereof the following:

“(c) **PUBLICITY.**—The Secretary shall undertake reasonable efforts to inform the public of the availability of the Program.”.

(c) **PETITIONS.**—

(1) Section 2111(a)(1) (42 U.S.C. 300aa-11(a)(1)) is amended—

(A) by striking out “filing of a petition” and inserting in lieu thereof “filing of a petition containing the matter prescribed by subsection (c)”, and

(B) by inserting at the end of paragraph (1) “The clerk of the United States Claims Court shall immediately forward the filed petition to the chief special master for assignment to a special master under section 2112(d)(1).”.

(2) Section 2111(a)(2)(A)(i) (42 U.S.C. 300aa-11(a)(2)(A)(i)) is amended by striking out “under subsection (b)”.

(3) Section 2111(a)(5) (42 U.S.C. 300aa-11(a)(5)) is amended—

(A) in subparagraph (A), by striking out “elect to withdraw such action” and inserting in lieu thereof “petition to have such action dismissed without prejudice or costs”, and

(B) in subparagraph (B), by striking out “on the effective date of this part had pending” and inserting in lieu thereof “has pending” and by striking out “does not withdraw the action under subparagraph (A)”.

(4) Section 2111(a)(6) (42 U.S.C. 300aa-11(a)(6)) is amended by striking out “the effective date of this part” each place it occurs and inserting in lieu thereof “November 15, 1988”.

(5) Section 2111(a) (42 U.S.C. 300aa-11(a)) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following:

“(8) If on the effective date of this part there was pending an appeal or rehearing with respect to a civil action brought against a vaccine administrator or manufacturer and if the outcome of the last appellate review of such action or the last rehearing of such action is the denial of damages for a vaccine-related injury or death, the person who brought such action may file a petition under subsection (b) for such injury or death.”.

(6) Section 2111(c) (42 U.S.C. 300aa-11(c)) is amended—

(A) in paragraph (1), by inserting “except as provided in paragraph (3),” after “(1)” and in paragraph (2), by inserting “except as provided in paragraph (3),” after “(2)”,

(B) by redesignating paragraph (2) as subsection (d), by expanding the margin of the paragraph to full measure, and by striking out “all available” and inserting in lieu thereof “(d) ADDITIONAL INFORMATION.—A petition may also include other available”, by striking out “(including autopsy reports, if any)”, and by striking out “and an identification” and all that follows and inserting in lieu thereof a period,

(C) by adding after paragraph (1) the following new paragraphs:

Records.

“(2) except as provided in paragraph (3), maternal prenatal and delivery records, newborn hospital records (including all physicians’ and nurses’ notes and test results), vaccination records associated with the vaccine allegedly causing the injury, pre- and post-injury physician or clinic records (including all relevant growth charts and test results), all post-injury inpatient and outpatient records (including all provider notes, test results, and medication records), if applicable, a death certificate, and if applicable, autopsy results, and

“(3) an identification of any records of the type described in paragraph (1) or (2) which are unavailable to the petitioner and the reasons for their unavailability.”, and

(D) by redesignating paragraph (3), as in effect on the date of the enactment, as subsection (e), by expanding the margin of the paragraph to full measure, and by striking out “appropriate” and inserting in lieu thereof “(e) SCHEDULE.—The petitioner shall submit in accordance with a schedule set by the special master assigned to the petition”.

42 USC
300aa-11.

(7) The margin on paragraph (9) of section 2111(a) (as so redesignated) is indented two ems.

(8) Section 2115(e)(2) (42 U.S.C. 300aa-15(e)(2)) is amended—

(A) by striking out “and elected under section 2111(a)(4) to withdraw such action” and inserting in lieu thereof “and petitioned under section 2111(a)(5) to have such action dismissed”, and

(B) by striking out “the judgment of the court on such petition may include” and inserting in lieu thereof “in awarding compensation on such petition the special master or court may include”.

(d) JURISDICTION.—Section 2112(a) (42 U.S.C. 300aa-12(a)) is amended—

(1) by striking out “shall have jurisdiction (1)” and inserting in lieu thereof “and the United States Claims Court special masters shall, in accordance with this section, have jurisdiction”.

(2) by striking out “, and (2) to issue” and inserting in lieu thereof a period and the following: “The United States Claims Court may issue”, and

(3) by striking out “deem” and inserting in lieu thereof “deems”.

(e) SPECIAL MASTERS ESTABLISHED.—Section 2112 (42 U.S.C. 300aa-12) is amended—

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

(2) by inserting after subsection (b) the following new subsection:

Establishment.

“(c) UNITED STATES CLAIMS COURT SPECIAL MASTERS.—

“(1) There is established within the United States Claims Court an office of special masters which shall consist of not more than 8 special masters. The judges of the United States Claims Court shall appoint the special masters, 1 of whom, by designation of the judges of the United States Claims Court, shall serve as chief special master. The appointment and re-appointment of the special masters shall be by the concurrence of a majority of the judges of the court.

“(2) The chief special master and other special masters shall be subject to removal by the judges of the United States Claims Court for incompetency, misconduct, or neglect of duty or for physical or mental disability or for other good cause shown.

“(3) A special master’s office shall be terminated if the judges of the United States Claims Court determine, upon advice of the chief special master, that the services performed by that office are no longer needed.

“(4) The appointment of any individual as a special master shall be for a term of 4 years, subject to termination under paragraphs (2) and (3). Individuals serving as special masters upon the date of the enactment of this subsection shall serve for 4 years from the date of their original appointment, subject to termination under paragraphs (2) and (3). The chief special master in office on the date of the enactment of this subsection shall continue to serve as chief special master for the balance of the master’s term, subject to termination under paragraphs (2) and (3).

“(5) The compensation of the special masters shall be determined by the judges of the United States Claims Court, upon advice of the chief special master. The salary of the chief special master shall be the annual rate of basic pay for level IV of the Executive Schedule, as prescribed by section 5315, title 5, United States Code. The salaries of the other special masters shall not exceed the annual rate of basic pay of level V of the Executive Schedule, as prescribed by section 5316, title 5, United States Code.

“(6) The chief special master shall be responsible for the following:

“(A) Administering the office of special masters and their staff, providing for the efficient, expeditious, and effective handling of petitions, and performing such other duties related to the Program as may be assigned to the chief special master by a concurrence of a majority of the United States Claims Courts judges.

“(B) Appointing and fixing the salary and duties of such administrative staff as are necessary. Such staff shall be subject to removal for good cause by the chief special master.

“(C) Managing and executing all aspects of budgetary and administrative affairs affecting the special masters and their staff, subject to the rules and regulations of the Judicial Conference of the United States. The Conference rules and regulations pertaining to United States magistrates shall be applied to the special masters.

“(D) Coordinating with the United States Claims Court the use of services, equipment, personnel, information, and facilities of the United States Claims Court without reimbursement.

“(E) Reporting annually to the Congress and the judges of the United States Claims Court on the number of petitions filed under section 2111 and their disposition, the dates on which the vaccine-related injuries and deaths for which the petitions were filed occurred, the types and amounts of awards, the length of time for the disposition of petitions, the cost of administering the Program, and recommendations for changes in the Program.”

(f) **PARTIES.**—Section 2112(b) (42 U.S.C. 300aa-12(b)) is amended—

(1) by amending the first sentence to read as follows: “In all proceedings brought by the filing of a petition under section 2111(b), the Secretary shall be named as the respondent, shall participate, and shall be represented in accordance with section 518(a) of title 28, United States Code.”, and

(2) by striking out the second sentence.

(g) **SPECIAL MASTER FUNCTIONS.**—Section 2112(d) (42 U.S.C. 300aa-12(d)) (as so redesignated by subsection (e)) is amended—

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

“(1) Following the receipt and filing of a petition under section 2111, the clerk of the United States Claims Court shall forward the petition to the chief special master who shall designate a special master to carry out the functions authorized by paragraph (3).”, and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

“(2) The special masters shall recommend rules to the Claims Court and, taking into account such recommended rules, the Claims Court shall promulgate rules pursuant to section 2071 of title 28, United States Code. Such rules shall—

“(A) provide for a less-adversarial, expeditious, and informal proceeding for the resolution of petitions,

“(B) include flexible and informal standards of admissibility of evidence,

“(C) include the opportunity for summary judgment,

“(D) include the opportunity for parties to submit arguments and evidence on the record without requiring routine use of oral presentations, cross examinations, or hearings, and

“(E) provide for limitations on discovery and allow the special masters to replace the usual rules of discovery in civil actions in the United States Claims Court.

“(3)(A) A special master to whom a petition has been assigned shall issue a decision on such petition with respect to whether compensation is to be provided under the Program and the amount of such compensation. The decision of the special master shall—

“(i) include findings of fact and conclusions of law, and

“(ii) be issued as expeditiously as practicable but not later than 240 days, exclusive of suspended time under subparagraph (C), after the date the petition was filed.

The decision of the special master may be reviewed by the United States Claims Court in accordance with subsection (e).

“(B) In conducting a proceeding on a petition a special master—

“(i) may require such evidence as may be reasonable and necessary,

“(ii) may require the submission of such information as may be reasonable and necessary,

“(iii) may require the testimony of any person and the production of any documents as may be reasonable and necessary,

“(iv) shall afford all interested persons an opportunity to submit relevant written information—

“(I) relating to the existence of the evidence described in section 2113(a)(1)(B), or

“(II) relating to any allegation in a petition with respect to the matters described in section 2111(c)(1)(C)(ii), and

“(v) may conduct such hearings as may be reasonable and necessary.

There may be no discovery in a proceeding on a petition other than the discovery required by the special master.

“(C) In conducting a proceeding on a petition a special master shall suspend the proceedings one time for 30 days on the motion of either party. After a motion for suspension is granted, further motions for suspension by either party may be granted by the special master, if the special master determines the suspension is reasonable and necessary, for an aggregate period not to exceed 150 days.

“(4)(A) Except as provided in subparagraph (B), information submitted to a special master or the court in a proceeding on a petition may not be disclosed to a person who is not a party to the proceeding without the express written consent of the person who submitted the information.

“(B) A decision of a special master or the court in a proceeding shall be disclosed, except that if the decision is to include information—

“(i) which is trade secret or commercial or financial information which is privileged and confidential, or

“(ii) which are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy,

and if the person who submitted such information objects to the inclusion of such information in the decision, the decision shall be disclosed without such information.”

(h) ACTION BY THE UNITED STATES CLAIMS COURT.—Section 2112(e) (42 U.S.C. 300aa-12(e)) (as so redesignated by subsection (e)) is amended to read as follows:

“(e) ACTION BY THE UNITED STATES CLAIMS COURT.—

“(1) Upon issuance of the special master’s decision, the parties shall have 30 days to file with the clerk of the United States Claims Court a motion to have the court review the decision. If such a motion is filed, the other party shall file a response with the clerk of the United States Claims Court no later than 30 days after the filing of such motion.

“(2) Upon the filing of a motion under paragraph (1) with respect to a petition, the United States Claims Court shall have jurisdiction to undertake a review of the record of the proceedings and may thereafter—

“(A) uphold the findings of fact and conclusions of law of the special master and sustain the special master’s decision,

“(B) set aside any findings of fact or conclusion of law of the special master found to be arbitrary, capricious, an

Classified
information.

abuse of discretion, or otherwise not in accordance with law and issue its own findings of fact and conclusions of law, or

“(C) remand the petition to the special master for further action in accordance with the court’s direction.

The court shall complete its action on a petition within 120 days of the filing of a response under paragraph (1) excluding any days the petition is before a special master as a result of a remand under subparagraph (C). The court may allow not more than 90 days for remands under subparagraph (C).

“(3) In the absence of a motion under paragraph (1) respecting the special master’s decision or if the United States Claims Court takes the action described in paragraph (2)(A) with respect to the special master’s decision, the clerk of the United States Claims Court shall immediately enter judgment in accordance with the special master’s decision.”

(i) **APPEALS.**—Section 2112(f) (42 U.S.C. 300aa-12(f)) (as so redesignated by subsection (e)) is amended by inserting before the period the following: “within 60 days of the date of entry of the United States Claims Court’s judgment with such court of appeals”.

(j) **DETERMINATION OF ELIGIBILITY AND COMPENSATION.**—Section 2113 (42 U.S.C. 300aa-13) is amended—

(1) by striking “court” each place it appears and inserting in lieu thereof “special master or court”, and

(2) by inserting before “United States Claims Court” in subsection (c) “special masters of”.

(k) **TABLE.**—

(1) The table contained in section 2114(a) (42 U.S.C. 300aa-14(a)) is amended by striking out “(c)(2)” each place it appears and inserting in lieu thereof “(b)(2)”.

(2) Section 2114(b)(3)(B) (42 U.S.C. 300aa-14(b)(3)(B)) is amended by striking out “2111(b)” and inserting in lieu thereof “2111”.

(l) **COMPENSATION.**—

(1) Section 2115(b) (42 U.S.C. 300aa-15(b)) is amended by striking out “may not include” and all that follows and inserting in lieu thereof “may include the compensation described in paragraphs (1)(A) and (2) of subsection (a) and may also include an amount, not to exceed a combined total of \$30,000, for—

“(1) lost earnings (as provided in paragraph (3) of subsection (a)),

“(2) pain and suffering (as provided in paragraph (4) of subsection (a)), and

“(3) reasonable attorneys’ fees and costs (as provided in subsection (e)).”

(2) Section 2115(e) (42 U.S.C. 300aa-15(b)) is amended—

(A) in the first sentence of paragraph (1), by striking out “The judgment of the United States Claims Court on a petition filed under section 2111 awarding compensation shall include an amount to cover” and inserting in lieu thereof “In awarding compensation on a petition filed under section 2111 the special master or court shall also award as part of such compensation an amount to cover”,

(B) in the second sentence of paragraph (1), by striking out “civil action” each place it appears and inserting in lieu thereof “petition”,

(C) in the second sentence of paragraph (1), by striking out “may include in the judgment an amount to cover” and inserting in lieu thereof “may award an amount of com-

compensation to cover” and by striking out “court” each place it appears and inserting in lieu thereof “special master or court”,

(D) in paragraph (2), by striking out “the judgment of the court on such petition may include an amount” and inserting in lieu thereof “the special master or court may also award an amount of compensation”, and

(E) in paragraph (3), by striking out “included under paragraph (1) in a judgment on such petition” and inserting in lieu thereof “awarded as compensation by the special master or court under paragraph (1)”.

(3) Section 2115(f) (42 U.S.C. 300aa-15(f)) is amended—

(A) in paragraph (3), by inserting after “Payments of compensation” the following: “under the Program and the costs of carrying out the Program”,

(B) in paragraph (4)(A), by striking out “made in a lump sum” and by adding after “compensation” the second time it appears the following: “and shall be paid from the trust fund in a lump sum of which all or a portion of the proceeds may be used as ordered by the special master to purchase an annuity or otherwise be used, with the consent of the petitioner, in a manner determined by the special master to be in the best interests of the petitioner”, and

(C) in paragraph (4)(B), by striking out “paid in 4 equal annual installments.” and inserting in lieu thereof “determined on the basis of the net present value of the elements of compensation and paid in 4 equal annual installments of which all or a portion of the proceeds may be used as ordered by the special master to purchase an annuity or otherwise be used, with the consent of the petitioner, in a manner determined by the special master to be in the best interests of the petitioner. Any reasonable attorneys’ fees and costs shall be paid in a lump sum.”.

(4) Section 2115 (42 U.S.C. 300aa-15) is amended—

(A) in subsection (g), by inserting “(other than under title XIX of the Social Security Act)” after “State health benefits program”, and

(B) in subsection (h), by inserting before the period at the end the following: “, except that this subsection shall not apply to the provision of services or benefits under title XIX of the Social Security Act”.

(5) Section 2115(i)(1) (42 U.S.C. 300aa-15(i)(1)) is amended by striking out “(i)” and inserting in lieu thereof “(j)”.

(6) The first sentence of section 2115(j) (42 U.S.C. 300aa-15(j)) is amended by striking out “and” after “1991,” and by inserting before the period a comma and “\$80,000,000 for fiscal year 1993”.

(m) TECHNICALS.—

(1) Section 2116(c) (42 U.S.C. 300aa-16(c)) is amended by striking out “2111(b)” and inserting in lieu thereof “2111”.

(2) Section 2117(b) (42 U.S.C. 300aa-17(b)) is amended by striking out “the trust fund which has been established to provide compensation under the Program” and inserting in lieu thereof “the Vaccine Injury Compensation Trust Fund established under section 9510 of the Internal Revenue Code of 1986”.

(n) ELECTION.—

(1) Section 2121(a) (42 U.S.C. 300aa-21(a)) is amended—

(A) in the first sentence, by striking out "After the judgment of the United States Claims Court under section 2111 on a petition filed for compensation under the Program for a vaccine-related injury or death has become final, the person who filed the petition shall file with the court" and inserting in lieu thereof: "After judgment has been entered by the United States Claims Court or, if an appeal is taken under section 2112(f), after the appellate court's mandate is issued, the petitioner who filed the petition under section 2111 shall file with the clerk of the United States Claims Court", and

(B) by amending the last sentence to read as follows: "For limitations on the bringing of civil actions, see section 2111(a)(2)."

(2) Section 2121(b) (42 U.S.C. 300aa-21(b)) is amended—

(A) in the first sentence, by striking out "within 365 days" and inserting in lieu thereof "within 420 days (excluding any period of suspension under section 2112(d) and excluding any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C))", and

(B) by amending the second sentence to read as follows: "An election shall be filed under this subsection not later than 90 days after the date of the entry of the Claims Court's judgment or the appellate court's mandate with respect to which the election is to be made."

(o) TRIAL.—Section 2123(e) (42 U.S.C. 300aa-23(e)) is amended—

(1) by striking out "finding" and inserting in lieu thereof "finding of fact or conclusion of law",

(2) by striking out "master appointed by such court" and inserting in lieu thereof "special master", and

(3) by striking out "a district court of the United States" and inserting in lieu thereof "the United States Claims Court and subsequent appellate review".

(p) VACCINE INFORMATION.—Section 2126(c)(9) (42 U.S.C. 300aa-26(c)(9)) is amended to read as follows:

"(9) a summary of—

"(A) relevant Federal recommendations concerning a complete schedule of childhood immunizations, and

"(B) the availability of the Program, and".

(q) SAFER VACCINES.—Section 2127 (42 U.S.C. 300aa-27) is amended by redesignating subsection (b) as subsection (c) and by adding after subsection (a) the following:

"(b) TASK FORCE.—

"(1) The Secretary shall establish a task force on safer childhood vaccines which shall consist of the Director of the National Institutes of Health, the Commissioner of the Food and Drug Administration, and the Director of the Centers for Disease Control.

"(2) The Director of the National Institutes of Health shall serve as chairman of the task force.

"(3) In consultation with the Advisory Commission on Childhood Vaccines, the task force shall prepare recommendations to the Secretary concerning implementation of the requirements of subsection (a)."

(r) AUTHORIZATIONS.—

Establishment.

(1) For administering part A of subtitle 2 of title XXI of the Public Health Service Act there is authorized to be appropriated from the **Vaccine Injury Compensation Trust Fund** established under section 9510(c) of the Internal Revenue Code of 1986 to the **Secretary of Health and Human Services** \$1,500,000 for each of the fiscal years 1990 and 1991.

(2) For administering part A of subtitle 2 of title XXI of the Public Health Service Act there is authorized to be appropriated from the Vaccine Injury Compensation Trust Fund to the **Attorney General** \$1,500,000 for each of the fiscal years 1990 and 1991.

(3) For administering part A of subtitle 2 of title XXI of the Public Health Service Act there is authorized to be appropriated from the Vaccine Injury Compensation Trust Fund to the **United States Claims Court** \$1,500,000 for each of the fiscal years 1990 and 1991.

(s) **APPLICABILITY AND EFFECTIVE DATE.**—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply as follows:

42 USC 300aa-10
note.

(A) Petitions filed after the date of enactment of this section shall proceed under the National Vaccine Injury Compensation Program under title XXI of the Public Health Service Act as amended by this section.

(B) Petitions currently pending in which the evidentiary record is closed shall continue to proceed under the Program in accordance with the law in effect before the date of the enactment of this section, except that if the United States Claims Court is to review the findings of fact and conclusions of law of a special master on such a petition, the court may receive further evidence in conducting such review.

(C) Petitions currently pending in which the evidentiary record is not closed shall proceed under the Program in accordance with the law as amended by this section.

All pending cases which will proceed under the Program as amended by this section shall be immediately suspended for 30 days to enable the special masters and parties to prepare for proceeding under the Program as amended by this section. In determining the 240-day period prescribed by section 2112(d) of the Public Health Service Act, as amended by this section, or the 420-day period prescribed by section 2121(b) of such Act, as so amended, any period of suspension under the preceding sentence shall be excluded.

(2) The amendments to section 2115 of the Public Health Service Act shall apply to all pending and subsequently filed petitions.

(t) **STUDY.**—The Secretary of Health and Human Services shall evaluate the National Vaccine Injury Compensation Program under title XXI of the Public Health Service Act and shall report the results of such study to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate not later than January 1, 1992.

Reports.
42 USC 300aa-1
note.

SEC. 6602. SEVERABILITY.

Section 322 of the National Childhood Vaccine Injury Act of 1986 (42 U.S.C. 300aa-1 note) is amended to read as follows:

"SEC. 322. SEVERABILITY.

"(a) IN GENERAL.—Except as provided in subsection (b), if any provision of title XXI of the Public Health Service Act, as added by section 311(a), or the application of such a provision to any person or circumstance is held invalid by reason of a violation of the Constitution, such title XXI shall be considered invalid.

"(b) SPECIAL RULE.—If any amendment made by section 6601 of the Omnibus Budget Reconciliation Act of 1989 to title XXI of the Public Health Service Act or the application of such a provision to any person or circumstance is held invalid by reason of the Constitution, subsection (a) shall not apply and such title XXI of the Public Health Service Act without such amendment shall continue in effect."

Subtitle E—Provisions With Respect to COBRA Continuation Coverage

PART 1—EXTENSION OF COVERAGE FOR DISABLED EMPLOYEES

SEC. 6701. EXTENSION, UNDER INTERNAL REVENUE CODE, OF COVERAGE FROM 18 TO 29 MONTHS FOR THOSE WITH A DISABILITY AT TIME OF TERMINATION OF EMPLOYMENT.

(a) IN GENERAL.—Paragraph (2)(B) of section 4980B(f) of the Internal Revenue Code of 1986, as added by section 3011(a) of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647), (relating to maximum required period of continuation coverage), is amended—

(1) in clause (i) by adding after and below subclause (IV) the following new sentence:

"In the case of a qualified beneficiary who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in paragraph (3)(B), any reference in subclause (I) or (II) to 18 months with respect to such event is deemed a reference to 29 months, but only if the qualified beneficiary has provided notice of such determination under paragraph (6)(C) before the end of such 18 months."; and

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

"(v) TERMINATION OF EXTENDED COVERAGE FOR DISABILITY.—In the case of a qualified beneficiary who is disabled at the time of a qualifying event described in paragraph (3)(B), the month that begins more than 30 days after the date of the final determination under title II or XVI of the Social Security Act that the qualified beneficiary is no longer disabled."

(b) INCREASED PREMIUM PERMITTED.—Paragraph (2)(C) of such section (relating to premium requirements) is amended by adding at the end the following new sentence: "In the case of an individual described in the last sentence of subparagraph (B)(i), any reference in clause (i) of this subparagraph to '102 percent' is deemed a reference to '150 percent' for any month after the 18th month of continuation coverage described in subclause (I) or (II) of subparagraph (B)(i)."