

**Calendar No. 98**

103D CONGRESS  
1ST SESSION

**S. 1134**

**A BILL**

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

JUNE 22, 1993

Read twice and placed on the calendar

**Calendar No. 98**103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION**S. 1134**

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IN THE SENATE OF THE UNITED STATES

JUNE 22, 1993

Mr. SASSER, from the Committee on the Budget, reported the following original bill; which was read twice and placed on the calendar

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**A BILL**

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

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

3        **SECTION 1. SHORT TITLE.**

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

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

7        The table of contents is as follows:

TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND  
FORESTRY

TITLE II—COMMITTEE ON ARMED SERVICES

TITLE III—COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

TITLE IV—COMMUNICATIONS AND TRANSPORTATION

TITLE V—COMMITTEE ON ENERGY AND NATURAL RESOURCES

TITLE VI—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

TITLE VII—FINANCE COMMITTEE RECONCILIATION PROVISIONS RELATING TO MEDICARE, MEDICAID, AND OTHER PROGRAMS

TITLE VIII—FINANCE COMMITTEE REVENUE PROVISIONS

TITLE IX—COMMITTEE ON FOREIGN RELATIONS

TITLE X—COMMITTEE ON GOVERNMENTAL AFFAIRS

TITLE XI—COMMITTEE ON THE JUDICIARY

TITLE XII—COMMITTEE ON LABOR AND HUMAN RESOURCES

TITLE XIII—VETERANS' PROGRAMS

1 **TITLE I—COMMITTEE ON AGRI-**  
2 **CULTURE, NUTRITION, AND**  
3 **FORESTRY**

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

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

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

Sec. 1001. Short title and table of contents.

Subtitle A—Commodity Programs

- Sec. 1101. Wheat program.
- Sec. 1102. Feed grain program.
- Sec. 1103. Upland cotton program.
- Sec. 1104. Rice program.
- Sec. 1105. Dairy program.
- Sec. 1106. Tobacco program.
- Sec. 1107. Sugar program.
- Sec. 1108. Oilseeds program.
- Sec. 1109. Peanut program.
- Sec. 1110. Honey program.
- Sec. 1111. Wool and mohair program.

Subtitle B—Restructuring of Loan Programs

Sec. 1201. Electric and telephone loan programs.

Subtitle C—Food Stamp Program

Sec. 1301. Uniform reimbursement rates.

Subtitle D—Agricultural Trade

Sec. 1401. Market promotion program.

Sec. 1402. Acreage reduction requirements.

Sec. 1403. End-use certificates.

Sec. 1404. Sense of Congress regarding the export of vegetable oil.

Subtitle E—Miscellaneous

Sec. 1501. Federal crop insurance.

Sec. 1502. Environmental conservation acreage reserve program amendments.

Sec. 1503. Admission, entrance, and recreation fees.

Sec. 1504. Sense of the Senate regarding deficit reduction.

## 1 **Subtitle A—Commodity Programs**

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

3 Section 107B(c)(1)(E) of the Agricultural Act of  
4 1949 (7 U.S.C. 1445b–3a(c)(1)(E)) is amended—

5 (1) in the subparagraph heading, by striking  
6 “0/92 PROGRAM” and inserting “0/85 PROGRAM”;  
7 and

8 (2) by inserting after “8 percent” both places  
9 it appears in clause (i) the following: “for each of  
10 the 1991 through 1993 crops, and 15 percent for  
11 each of the 1994 and 1995 crops (except as provided  
12 in clause (vii)),”, and by adding at the end of the  
13 subparagraph the following new clause:

14 “(vii) EXCEPTIONS TO 0/85.—In the  
15 case of each of the 1994 and 1995 crops  
16 of wheat, producers on a farm shall be eli-

1           gible to receive deficiency payments as pro-  
2           vided in clause (ii) if an acreage limitation  
3           program under subsection (e) is in effect  
4           for the crop and—

5                   “(I)(aa) the producers have been  
6                   determined by the Secretary (in ac-  
7                   cordance with section 503(c)) to be  
8                   prevented from planting the crop or  
9                   have incurred a reduced yield for the  
10                  crop (due to a natural disaster); and

11                   “(bb) the producers elect to de-  
12                   vote a portion of the maximum pay-  
13                   ment acres for wheat (as calculated  
14                   under subparagraph (C)(ii)) equal to  
15                   more than 8 percent of the wheat  
16                   acreage, to conservation uses; or

17                   “(II) the producers elect to de-  
18                   vote a portion of the maximum pay-  
19                   ment acres for wheat (as calculated  
20                   under subparagraph (C)(ii)) equal to  
21                   more than 8 percent of the wheat  
22                   acreage, to alternative crops as pro-  
23                   vided in subparagraph (F).”.

1 **SEC. 1102. FEED GRAIN PROGRAM.**

2 (a) 0/92 PROGRAM.—Section 105B(c)(1)(E) of the  
3 Agricultural Act of 1949 (7 U.S.C. 1444f(c)(1)(E)) is  
4 amended—

5 (1) in the subparagraph heading, by striking  
6 “0/92 PROGRAM” and inserting “0/85 PROGRAM”;  
7 and

8 (2) by inserting after “8 percent” both places  
9 it appears in clause (i) the following: “for each of  
10 the 1991 through 1993 crops, and 15 percent for  
11 each of the 1994 and 1995 crops (except as provided  
12 in clause (vii)),”, and by adding at the end of the  
13 subparagraph the following new clause:

14 “(vii) EXCEPTIONS TO 0/85.—In the  
15 case of each of the 1994 and 1995 crops  
16 of feed grains, producers on a farm shall  
17 be eligible to receive deficiency payments  
18 as provided in clause (ii) if an acreage lim-  
19 itation program under subsection (e) is in  
20 effect for the crop and—

21 “(I)(aa) the producers have been  
22 determined by the Secretary (in ac-  
23 cordance with section 503(c)) to be  
24 prevented from planting the crop or  
25 have incurred a reduced yield for the  
26 crop (due to a natural disaster); and

1 “(bb) the producers elect to de-  
2 vote a portion of the maximum pay-  
3 ment acres for feed grains (as cal-  
4 culated under subparagraph (C)(ii))  
5 equal to more than 8 percent of the  
6 feed grain acreage, to conservation  
7 uses; or

8 “(II) the producers elect to de-  
9 vote a portion of the maximum pay-  
10 ment acres for feed grains (as cal-  
11 culated under subparagraph (C)(ii))  
12 equal to more than 8 percent of the  
13 feed grain acreage, to alternative  
14 crops as provided in subparagraph  
15 (F).”.

16 (b) TECHNICAL AMENDMENT.—Section  
17 105B(c)(1)(B)(iii)(IV)(bb) of such Act is amended by  
18 striking “clause (i)(I)” and inserting “clauses (i)(I) and  
19 (ii)(I)”.

20 **SEC. 1103. UPLAND COTTON PROGRAM.**

21 (a) 50/92 PROGRAM.—Section 103B(c)(1)(D) of the  
22 Agricultural Act of 1949 (7 U.S.C. 1444–2(c)(1)(D)) is  
23 amended—

1           (1) in the subparagraph heading, by striking  
2           “50/92 PROGRAM” and inserting “50/85 PROGRAM”;  
3           and

4           (2) by inserting after “8 percent” both places  
5           it appears in clause (i) the following: “for each of  
6           the 1991 through 1993 crops, and 15 percent for  
7           each of the 1994 and 1995 crops (except as provided  
8           in clause (v)(II)),”, and in clause (v)—

9                   (A) by striking “(v) PREVENTED PLANT-  
10                   ING.—If” and inserting the following:

11                           “(v) PREVENTED PLANTING AND RE-  
12                           DUCED YIELDS.—

13                                   “(I) 1991 THROUGH 1993  
14                                   CROPS.—In the case of each of the  
15                                   1991 through 1993 crops of upland  
16                                   cotton, if”; and

17                   (B) by adding at the end the following new  
18                   subclause:

19                                   “(II) 1994 AND 1995 CROPS.—In  
20                                   the case of each of the 1994 and 1995  
21                                   crops of upland cotton, producers on a  
22                                   farm shall be eligible to receive defi-  
23                                   ciency payments as provided in clause  
24                                   (iii) if an acreage limitation program

1 under subsection (e) is in effect for  
2 the crop and—

3 “(aa) the producers have  
4 been determined by the Secretary  
5 (in accordance with section  
6 503(c)) to be prevented from  
7 planting the crop or have in-  
8 curred a reduced yield for the  
9 crop (due to a natural disaster)  
10 and the producers elect to devote  
11 a portion of the maximum pay-  
12 ment acres for upland cotton (as  
13 calculated under subparagraph  
14 (C)(ii)) equal to more than 8 per-  
15 cent of the upland cotton acre-  
16 age, to conservation uses; or

17 “(bb) the producers elect to  
18 devote a portion of the maximum  
19 payment acres for upland cotton  
20 (as calculated under subpara-  
21 graph (C)(ii)) equal to more than  
22 8 percent of the upland cotton  
23 acreage, to alternative crops as  
24 provided in subparagraph (E).”.

1 (b) ACREAGE LIMITATION PROGRAM.—Section  
2 103B(e)(1)(D) of such Act is amended by inserting after  
3 “30 percent” the following: “for each of the 1991 through  
4 1994 crops, and 29½ percent for the 1995 crop”.

5 **SEC. 1104. RICE PROGRAM.**

6 Section 101B(c)(1)(D) of the Agricultural Act of  
7 1949 (7 U.S.C. 1441-2(c)(1)(D)) is amended—

8 (1) in the subparagraph heading, by striking  
9 “50/92 PROGRAM” and inserting “50/85 PROGRAM”;  
10 and

11 (2) by inserting after “8 percent” both places  
12 it appears in clause (i) the following: “for each of  
13 the 1991 through 1993 crops, and 15 percent for  
14 each of the 1994 and 1995 crops (except as provided  
15 in clause (v)(II)),”, and in clause (v)—

16 (A) by striking “(v) PREVENTED PLANT-  
17 ING.—If” and inserting the following:

18 “(v) PREVENTED PLANTING AND RE-  
19 DUCED YIELDS.—

20 “(I) 1991 THROUGH 1993  
21 CROPS.—In the case of each of the  
22 1991 through 1993 crops of rice, if”;  
23 and

24 (B) by adding at the end the following new  
25 subclause:

1           “(II) 1994 AND 1995 CROPS.—In  
2 the case of each of the 1994 and 1995  
3 crops of rice, producers on a farm  
4 shall be eligible to receive deficiency  
5 payments as provided in clause (iii) if  
6 an acreage limitation program under  
7 subsection (e) is in effect for the crop  
8 and—

9           “(aa) the producers have  
10 been determined by the Secretary  
11 (in accordance with section  
12 503(c)) to be prevented from  
13 planting the crop or have in-  
14 curred a reduced yield for the  
15 crop (due to a natural disaster)  
16 and the producers elect to devote  
17 a portion of the maximum pay-  
18 ment acres for rice (as calculated  
19 under subparagraph (C)(ii))  
20 equal to more than 8 percent of  
21 the rice acreage, to conservation  
22 uses; or

23           “(bb) the producers elect to  
24 devote a portion of the maximum  
25 payment acres for rice (as cal-

1                   culated under subparagraph  
2                   (C)(ii) equal to more than 8 per-  
3                   cent of the rice acreage, to alter-  
4                   native crops as provided in sub-  
5                   paragraph (E).”.

6 **SEC. 1105. DAIRY PROGRAM.**

7           (a) IN GENERAL.—Section 204 of the Agricultural  
8 Act of 1949 (7 U.S.C. 1446e) is amended—

9                   (1) in subsection (c)(3)—

10                         (A) in the first sentence of subparagraph  
11                         (A), by striking “The Secretary” and inserting  
12                         “Subject to subparagraph (B), the Secretary”;

13                         (B) by redesignating subparagraph (B) as  
14                         subparagraph (C); and

15                         (C) by inserting after subparagraph (A)  
16                         the following new subparagraph:

17                                 “(B) GUIDELINES.—In the case of pur-  
18                                 chases of butter and nonfat dry milk that are  
19                                 made by the Secretary under this section on or  
20                                 after the date of enactment of this clause, in al-  
21                                 locating the rate of price support between the  
22                                 purchase prices of butter and nonfat dry milk  
23                                 under this paragraph, the Secretary may not—

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

1           “(ii) offer to purchase nonfat dry milk  
2           for less than \$1.034 per pound.”; and

3           (2) in subsection (h)(2)—

4           (A) by striking “and” at the end of sub-  
5           paragraph (A);

6           (B) by striking the period at the end of  
7           subparagraph (B) and inserting “; and”; and

8           (C) by adding at the end the following new  
9           subparagraph:

10           “(C) during calendar year 1996, 10 cents  
11           per hundredweight of milk marketed, which  
12           rate shall be adjusted on or before May 1 of  
13           calendar year 1996 in the manner provided in  
14           subparagraph (B).”.

15           (b) SALE, MARKETING, OR USE OF BOVINE GROWTH  
16           HORMONE.—Section 204 of such Act is amended—

17           (1) by redesignating subsection (k) as sub-  
18           section (l); and

19           (2) by inserting after subsection (j) the follow-  
20           ing new subsection:

21           “(k) SALE, MARKETING, OR USE OF BOVINE  
22           GROWTH HORMONE.—

23           “(1) DEFINITION OF BOVINE GROWTH HOR-  
24           MONE.—As used in this subsection, the term ‘bovine  
25           growth hormone’ means a synthetic growth hormone

1 produced through the process of recombinant DNA  
2 techniques that is intended for use in bovine ani-  
3 mals.

4 “(2) PROHIBITION ON SALE, MARKETING, OR  
5 USE.—During the period beginning on the date of  
6 enactment of this paragraph and ending on Septem-  
7 ber 30, 1994, it shall be unlawful for a person to  
8 sell, market, or use bovine growth hormone for com-  
9 mercial agricultural purposes.

10 “(3) ENFORCEMENT.—Not later than 30 days  
11 after the date of enactment of this paragraph, the  
12 Secretary shall issue regulations to provide for the  
13 enforcement of the prohibition contained in para-  
14 graph (2).”.

15 (c) COMMERCIAL USE OF BOVINE GROWTH HOR-  
16 MONE IN OTHER COUNTRIES.—Section 204(k) of such  
17 Act (as added by subsection (b)(2)) is further amended  
18 by adding at the end the following new paragraph:

19 “(4) EXTENSION.—The Secretary shall have  
20 the authority to continue the prohibition on the com-  
21 mercial use of bovine growth hormone beyond the  
22 period referred to in paragraph (2) until the Presi-  
23 dent certifies to Congress that other major milk and  
24 dairy exporting countries have approved the com-  
25 mercial use of bovine growth hormone.”.

1 (d) CONFORMING AMENDMENTS.—Section 204 of  
2 such Act is amended—

3 (1) in the section heading, by striking “1995”  
4 and inserting “1996”;

5 (2) by striking “1995” each place it appears  
6 (other than in subsection (h)(2)(B)) and inserting  
7 “1996”; and

8 (3) in subsection (g)(2), by striking “1994”  
9 and inserting “1995”.

10 **SEC. 1106. TOBACCO PROGRAM.**

11 (a) DOMESTIC MARKETING ASSESSMENT.—Part I of  
12 subtitle B of title III of the Agricultural Adjustment Act  
13 of 1938 (7 U.S.C. 1311 et seq.) is amended by adding  
14 at the end the following new section:

15 **“SEC. 320C. DOMESTIC MARKETING ASSESSMENT.**

16 “(a) CERTIFICATION.—A domestic manufacturer of  
17 cigarettes shall certify to the Secretary, for each calendar  
18 year, the percentage of the quantity of tobacco that the  
19 manufacturer uses to produce cigarettes during the year  
20 that is produced in the United States.

21 “(b) PENALTIES.—

22 “(1) IN GENERAL.—A domestic manufacturer  
23 of cigarettes that has failed, as determined by the  
24 Secretary after notice and opportunity for a hearing,  
25 to use in the manufacture of cigarettes during a cal-

1       endar year at least 75 percent of tobacco produced  
2       in the United States, or to comply with subsection  
3       (a), shall be subject to the requirements of sub-  
4       sections (c), (d), and (e).

5           “(2) FAILURE TO CERTIFY.—For purposes of  
6       this section, if a manufacturer fails to comply with  
7       subsection (a), the manufacturer shall be presumed  
8       to have used only imported tobacco in the manufac-  
9       ture of cigarettes produced by the manufacturer.

10          “(3) REPORTS AND RECORDS.—The Secretary  
11       may require a manufacturer to make such reports  
12       and maintain such records as are necessary to carry  
13       out this section in accordance with section 373.

14          “(c) DOMESTIC MARKETING ASSESSMENT.—

15           “(1) IN GENERAL.—A domestic manufacturer  
16       of cigarettes described in subsection (b) shall remit  
17       to the Commodity Credit Corporation a nonrefund-  
18       able marketing assessment in accordance with this  
19       subsection.

20           “(2) AMOUNT.—The amount of an assessment  
21       imposed on a manufacturer under this subsection  
22       shall be determined by multiplying—

23           “(A) the quantity by which the quantity of  
24           imported tobacco used by the manufacturer to  
25           produce cigarettes during a preceding calendar

1 year exceeds 25 percent of the quantity of all  
2 tobacco used by the manufacturer to produce  
3 cigarettes during the preceding calendar year;  
4 by

5 “(B) the difference between—

6 “(i)  $\frac{1}{2}$  of the sum of—

7 “(I) the average price per pound  
8 received by domestic producers for  
9 Burley tobacco during the preceding  
10 calendar year; and

11 “(II) the average price per pound  
12 received by domestic producers for  
13 Flue-cured tobacco during the preced-  
14 ing calendar year; and

15 “(ii) the average price per pound of  
16 unmanufactured imported tobacco during  
17 the preceding calendar year, as determined  
18 by the Secretary.

19 “(3) COLLECTION.—An assessment imposed  
20 under this subsection shall be—

21 “(A) collected by this Secretary and trans-  
22 mitted to the Commodity Credit Corporation;  
23 and

24 “(B) enforced in the same manner as pro-  
25 vided in section 320B.

1 “(d) PURCHASE OF BURLEY TOBACCO.—

2 “(1) IN GENERAL.—A domestic manufacturer  
3 of cigarettes described in subsection (b) shall pur-  
4 chase from the inventories of the producer-owned co-  
5 operative marketing associations for Burley tobacco  
6 described in section 320B(a)(2), at the applicable  
7 list price published by the association, the quantity  
8 of tobacco described in paragraph (2).

9 “(2) QUANTITY.—Subject to paragraph (3), the  
10 quantity of Burley tobacco required to be purchased  
11 by a manufacturer during a calendar year under this  
12 subsection shall equal  $\frac{1}{2}$  of the quantity of imported  
13 tobacco used by the manufacturer to produce ciga-  
14 rettes during the preceding calendar year that ex-  
15 ceeds 25 percent of the quantity of all tobacco used  
16 by the manufacturer to produce cigarettes during  
17 the preceding calendar year.

18 “(3) LIMITATION.—If the total quantity of Bur-  
19 ley tobacco required to be purchased by all manufac-  
20 turers under paragraph (2) would reduce the inven-  
21 tories of the producer-owned cooperative marketing  
22 associations for Burley tobacco to less than the re-  
23 serve stock level for Burley tobacco, the Secretary  
24 shall reduce the quantity of tobacco required to be  
25 purchased by manufacturers under paragraph (2),

1 on a pro rata basis, to ensure that the inventories  
2 will not be less than the reserve stock level for Bur-  
3 ley tobacco.

4 “(4) NONCOMPLIANCE.—If a manufacturer fails  
5 to purchase from the inventories of the producer-  
6 owned cooperative marketing associations the quan-  
7 tity of Burley tobacco required under this sub-  
8 section, the manufacturer shall be subject to a pen-  
9 alty of 75 percent of the average market price (cal-  
10 culated to the nearest whole cent) for Burley tobacco  
11 for the immediately preceding year on the quantity  
12 of tobacco as to which the failure occurs.

13 “(5) PURCHASE REQUIREMENTS.—Tobacco  
14 purchased by a manufacturer under this subsection  
15 shall not be included in determining the quantity of  
16 tobacco purchased by the manufacturer under sec-  
17 tion 320B.

18 “(e) PURCHASE OF FLUE-CURED TOBACCO.—

19 “(1) IN GENERAL.—A domestic manufacturer  
20 of cigarettes described in subsection (b) shall pur-  
21 chase from the inventories of the producer-owned co-  
22 operative marketing association for Flue-cured to-  
23 bacco described in section 320B(a)(2), at the appli-  
24 cable list price published by the association, the  
25 quantity of tobacco described in paragraph (2).

1           “(2) QUANTITY.—Subject to paragraph (3), the  
2           quantity of Flue-cured tobacco required to be pur-  
3           chased by a manufacturer during a calendar year  
4           under this subsection shall equal  $\frac{1}{2}$  of the quantity  
5           of imported tobacco used by the manufacturer to  
6           produce cigarettes during the preceding calendar  
7           year that exceeds 25 percent of the quantity of all  
8           tobacco used by the manufacturer to produce ciga-  
9           rettes during the preceding calendar year.

10           “(3) LIMITATION.—If the total quantity of  
11           Flue-cured tobacco required to be purchased by all  
12           manufacturers under paragraph (2) would reduce  
13           the inventories of the producer-owned cooperative  
14           marketing association for Flue-cured tobacco to less  
15           than the reserve stock level for Flue-cured tobacco,  
16           the Secretary shall reduce the quantity of tobacco  
17           required to be purchased by manufacturers under  
18           paragraph (2), on a pro rata basis, to ensure that  
19           the inventories will not be less than the reserve stock  
20           level for Flue-cured tobacco.

21           “(4) NONCOMPLIANCE.—If a manufacturer fails  
22           to purchase from the inventories of the producer-  
23           owned cooperative marketing association the quan-  
24           tity of Flue-cured tobacco required under this sub-  
25           section, the manufacturer shall be subject to a pen-

1 alty of 75 percent of the average market price (cal-  
2 culated to the nearest whole cent) for Flue-cured to-  
3 bacco for the immediately preceding year on the  
4 quantity of tobacco as to which the failure occurs.

5 “(5) PURCHASE REQUIREMENTS.—Tobacco  
6 purchased by a manufacturer under this subsection  
7 shall not be included in determining the quantity of  
8 tobacco purchased by the manufacturer under sec-  
9 tion 320B.

10 “(f) ENFORCEMENT.—The Secretary may enforce  
11 this section in the courts of the United States.”.

12 (b) BUDGET DEFICIT ASSESSMENT.—

13 (1) IN GENERAL.—Section 106 of the Agricul-  
14 tural Act of 1949 (7 U.S.C. 1445) is amended—

15 (A) in subsection (g)(1), by striking  
16 “1995” and inserting “1998”; and

17 (B) by adding at the end the following new  
18 subsection:

19 “(h)(1) Effective only for each of the 1994 through  
20 1998 crops of tobacco, an importer of tobacco that is pro-  
21 duced outside the United States shall remit to the Com-  
22 modity Credit Corporation a nonrefundable marketing as-  
23 sessment in an amount equal to the product obtained by  
24 multiplying—

1           “(A) the number of pounds of tobacco that is  
2 imported by the importer; by

3           “(B) the sum of—

4                 “(i) the per pound marketing assessment  
5 imposed on purchasers of domestic Burley to-  
6 bacco pursuant to subsection (g); and

7                 “(ii) the per pound marketing assessment  
8 imposed on purchasers of domestic Flue-cured  
9 tobacco pursuant to subsection (g).

10          “(2) An assessment imposed under this subsection  
11 shall be paid by the importer.

12          “(3)(A) The importer shall remit the assessment at  
13 such time and in such manner as may be prescribed by  
14 the Secretary.

15          “(B) If the importer fails to comply with subpara-  
16 graph (A), the importer shall be liable for a marketing  
17 penalty at a rate equal to 37.5 percent of the sum of the  
18 average market price (calculated to the nearest whole  
19 cent) of Flue-cured and Burley tobacco for the imme-  
20 diately preceding year on the quantity of tobacco as to  
21 which the failure occurs.

22          “(C) The Secretary may reduce an assessment in  
23 such amount as the Secretary determines equitable in any  
24 case in which the Secretary determines that the failure

1 was unintentional or without knowledge on the part of the  
2 person concerned.

3 “(D) Any assessment provided for under this sub-  
4 section shall be assessed by the Secretary after notice and  
5 opportunity for a hearing.

6 “(4)(A) Any person against whom a penalty is as-  
7 sessed under this subsection may obtain review of the pen-  
8 alty in an appropriate district court of the United States  
9 by filing a civil action in the court not later than 30 days  
10 after the penalty is imposed.

11 “(B) The Secretary shall promptly file in the court  
12 a certified copy of the record on which the penalty is  
13 based.

14 “(5) The district courts of the United States shall  
15 have jurisdiction to review and enforce any penalty im-  
16 posed under this subsection.

17 “(6) An amount equivalent to any penalty collected  
18 by the Secretary under this subsection shall be deposited  
19 for use by the Commodity Credit Corporation.”.

20 (2) IMPORTER ASSESSMENTS FOR NO NET COST  
21 TOBACCO FUND.—Section 106A of such Act (7  
22 U.S.C. 1445–1) is amended—

23 (A) in subsection (c), by inserting “and  
24 importers” after “purchasers”;

25 (B) in subsection (d)(1)(A)—

1 (i) by striking “and” at the end of  
2 clause (i); and

3 (ii) by inserting after clause (ii) the  
4 following new clause:

5 “(iii) each importer of Flue-cured or  
6 Burley tobacco shall pay to the appropriate  
7 association, for deposit in the Fund of the  
8 association, an assessment, in an amount  
9 that is equal to the product obtained by  
10 multiplying—

11 “(I) the number of pounds of to-  
12 bacco that is imported by the im-  
13 porter; by

14 “(II) the sum of the amount of  
15 per pound producer contributions and  
16 purchaser assessments that are pay-  
17 able by domestic producers and pur-  
18 chasers of Flue-cured and Burley to-  
19 bacco under clauses (i) and (ii); and”;

20 (C) in subsection (d)(2)—

21 (i) by inserting “or importer” after  
22 “or purchaser”;

23 (ii) by striking “and” at the end of  
24 subparagraph (B);

1 (iii) by inserting “and” at the end of  
2 subparagraph (C); and

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

5 “(D) if the tobacco involved is imported by  
6 an importer, from the importer.”; and

7 (D) in subsection (h)(1)—

8 (i) by redesignating subparagraphs  
9 (B) and (C) as subparagraphs (C) and  
10 (D), respectively; and

11 (ii) by inserting after subparagraph  
12 (A) the following new subparagraph:

13 “(B) Each importer who fails to pay to the associa-  
14 tion an assessment as required by subsection (d)(2) at  
15 such time and in such manner as may be prescribed by  
16 the Secretary, shall be liable, in addition to any amount  
17 due, to a marketing penalty at a rate equal to 75 percent  
18 of the average market price (calculated to the nearest  
19 whole cent) for the respective kind of tobacco for the im-  
20 mediately preceding year on the quantity of tobacco as to  
21 which the failure occurs.”.

22 (3) IMPORTER ASSESSMENTS TO NO NET COST  
23 TOBACCO ACCOUNT.—Section 106B of such Act (7  
24 U.S.C. 1445-2) is amended—

1 (A) in subsection (c)(1), by striking “pro-  
2 ducers and purchasers” and inserting “produc-  
3 ers, purchasers, and importers”;

4 (B) in subsection (d)(1)—

5 (i) by designating the first and second  
6 sentences as subparagraphs (A) and (B),  
7 respectively; and

8 (ii) by adding at the end the following  
9 new subparagraph:

10 “(C) The Secretary shall also require (in lieu of any  
11 requirement under section 106A(d)(1)) that each importer  
12 of Flue-cured and Burley tobacco shall pay to the Cor-  
13 poration, for deposit in the Account of the association, an  
14 assessment, as determined under paragraph (2) and col-  
15 lected under paragraph (3), with respect to purchases of  
16 all such kind of tobacco imported by the importer.”;

17 (C) in subsection (d)(2), by adding at the  
18 end the following new subparagraph:

19 “(C) The amount of the assessment to be paid by  
20 importers shall be an amount that is equal to the product  
21 obtained by multiplying—

22 “(i) the number of pounds of tobacco that is  
23 imported by the importer; by

24 “(ii) the sum of the amount of per pound pro-  
25 ducer and purchaser assessments that are payable

1 by domestic producers and purchasers of the respec-  
2 tive kind of tobacco under this paragraph.”;

3 (D) in subsection (d)(3), by adding at the  
4 end the following new subparagraph:

5 “(D) If Flue-cured or Burley tobacco is imported by  
6 an importer, any importer assessment required by sub-  
7 section (d) shall be collected from the importer.”; and

8 (E) in subsection (j)(1)—

9 (i) by redesignating subparagraphs  
10 (B) and (C) as subparagraphs (C) and  
11 (D), respectively; and

12 (ii) by inserting after subparagraph  
13 (A) the following new subparagraph:

14 “(B) Each importer who fails to pay to the Corpora-  
15 tion an assessment as required by subsection (d) at such  
16 time and in such manner as may be prescribed by the Sec-  
17 retary, shall be liable, in addition to any amount due, to  
18 a marketing penalty at a rate equal to 75 percent of the  
19 average market price (calculated to the nearest whole  
20 cent) for the respective kind of tobacco for the imme-  
21 diately preceding year on the quantity of tobacco as to  
22 which the failure occurs.”.

23 (c) FEES FOR INSPECTING IMPORTED TOBACCO.—  
24 The second sentence of section 213(d) of the Tobacco Ad-  
25 justment Act of 1983 (7 U.S.C. 511r(d)) is amended by

1 inserting before the period at the end the following: “, and  
2 which shall be comparable to fees and charges fixed and  
3 collected for services provided in connection with tobacco  
4 produced in the United States”.

5 (d) EXTENSION OF QUOTA REDUCTION FLOORS.—

6 (1) BURLEY TOBACCO.—Section  
7 319(c)(3)(C)(ii) of the Agricultural Adjustment Act  
8 of 1938 (7 U.S.C. 1314e(c)(3)(C)(ii)) is amended—

9 (A) by striking “1993” and inserting  
10 “1996”; and

11 (B) by inserting before the period at the  
12 end the following: “, except that, in the case of  
13 each of the 1995 and 1996 crops of Burley to-  
14 bacco, the Secretary may waive the require-  
15 ments of this clause if the Secretary determines  
16 that the requirements would likely result in in-  
17 ventories of the producer-owned cooperative  
18 marketing associations for Burley tobacco de-  
19 scribed in section 320B(a)(2) to exceed 150  
20 percent of the reserve stock level for Burley  
21 tobacco”.

22 (2) FLUE-CURED TOBACCO.—Section  
23 317(a)(1)(C)(ii) of such Act (7 U.S.C.  
24 1314c(a)(1)(C)(ii)) is amended—

1 (A) by striking “1993” and inserting  
2 “1996”; and

3 (B) by inserting before the period at the  
4 end the following: “, except that, in the case of  
5 each of the 1995 and 1996 crops of Flue-cured  
6 tobacco, the Secretary may waive the require-  
7 ments of this clause if the Secretary determines  
8 that the requirements would likely result in in-  
9 ventories of the producer-owned cooperative  
10 marketing association for Flue-cured tobacco  
11 described in section 320B(a)(2) to exceed 150  
12 percent of the reserve stock level for Flue-cured  
13 tobacco”.

14 **SEC. 1107. SUGAR PROGRAM.**

15 Section 206(i) of the Agricultural Act of 1949 (7  
16 U.S.C. 1446g(i)) is amended—

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

20 “(A) in the case of marketings during each  
21 of fiscal years 1992 through 1994, .18 cents  
22 per pound of raw cane sugar, processed by the  
23 processor from domestically produced sugarcane  
24 or sugarcane molasses, that has been marketed  
25 (including the transfer or delivery of the sugar

1 to a refinery for further processing or market-  
2 ing); and

3 “(B) in the case of marketings during each  
4 of fiscal years 1995 and 1996, .198 cents per  
5 pound of raw cane sugar, processed by the  
6 processor from domestically produced sugarcane  
7 or sugarcane molasses, that has been marketed  
8 (including the transfer or delivery of the sugar  
9 to a refinery for further processing or market-  
10 ing).”; and

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

14 “(A) in the case of marketings during each  
15 of fiscal years 1992 through 1994, .193 cents  
16 per pound of beet sugar, processed by the proc-  
17 essor from domestically produced sugar beets or  
18 sugar beet molasses, that has been marketed;  
19 and

20 “(B) in the case of marketings during each  
21 of fiscal years 1995 and 1996, .2123 cents per  
22 pound of beet sugar, processed by the processor  
23 from domestically produced sugar beets or  
24 sugar beet molasses, that has been marketed.”.

1 **SEC. 1108. OILSEEDS PROGRAM.**

2 (a) LOAN LEVEL.—Section 205(c) of the Agricultural  
3 Act of 1949 (7 U.S.C. 1446f(c)) is amended—

4 (1) in paragraph (1), by inserting after “\$5.02  
5 per bushel” the following: “for each of the 1991  
6 through 1993 crops and \$4.92 per bushel for each  
7 of the 1994 and 1995 crops”; and

8 (2) in paragraph (2), by inserting after “\$0.089  
9 per pound” the following: “for each of the 1991  
10 through 1993 crops and \$0.087 per pound for each  
11 of the 1994 and 1995 crops”.

12 (b) LOAN MATURITY.—Section 205(h) of such Act is  
13 amended by striking “mature on the last day of the 9th  
14 month following the month the application for the loan  
15 is made.” and inserting the following: “mature—

16 “(1) in the case of each of the 1991 through  
17 1993 crops, on the last day of the 9th month follow-  
18 ing the month the application for the loan is made;  
19 and

20 “(2) in the case of each of the 1994 and 1995  
21 crops, on the last day of the 9th month following the  
22 month the application for the loan is made, except  
23 that the loan may not mature later than the last day  
24 of the fiscal year in which the application is made.”.

1 (c) LOAN ORIGINATION FEE.—Section 205(m) of  
2 such Act is amended by adding at the end the following  
3 new paragraph:

4 “(3) APPLICABILITY.—This subsection shall  
5 apply only to each of the 1991 through 1993 crops  
6 of oilseeds.”.

7 **SEC. 1109. PEANUT PROGRAM.**

8 Section 108B(g) of the Agricultural Act of 1949 (7  
9 U.S.C. 1445c-3(g)) is amended—

10 (1) in paragraph (1), by inserting after “1 per-  
11 cent” both places it appears the following: “for each  
12 of the 1991 through 1993 crops, and 1.1 percent for  
13 each of the 1994 and 1995 crops,”; and

14 (2) in paragraph (2)(A)—

15 (A) in clause (i), by striking “ $\frac{1}{2}$  percent”  
16 and inserting “.5 percent for each of the 1991  
17 through 1993 crops, and .6 percent for each of  
18 the 1994 and 1995 crops,”; and

19 (B) in clause (ii), by striking “ $\frac{1}{2}$  percent”  
20 and inserting “.5 percent”.

21 **SEC. 1110. HONEY PROGRAM.**

22 (a) REDUCED SUPPORT RATE.—Section 207(a) of  
23 the Agricultural Act of 1949 (7 U.S.C. 1446h(a)) is  
24 amended by striking “than 53.8 cents per pound.” and  
25 inserting the following: “than—

1           “(1) 53.8 cents per pound for each of the 1991  
2 through 1993 crops; and

3           “(2) 47 cents per pound for each of the 1994  
4 through 1997 crops.”.

5           (b) PAYMENT LIMITATIONS.—Section 207(e)(1) of  
6 such Act is amended—

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

9           (2) by striking subparagraph (D) and inserting  
10 the following new subparagraphs:

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

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

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

14                   “(G) \$50,000 in the 1997 crop year.”.

15           (c) CONFORMING AMENDMENTS.—Section 207 of  
16 such Act (as amended by subsection (b)) is further amend-  
17 ed by striking “1995” each place it appears (other than  
18 in subsection (e)(1)(E)) and inserting “1997”.

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

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

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

1           (2) by striking subparagraph (D) and inserting  
2           the following new subparagraphs:

3                   “(D) \$125,000 for the 1994 marketing  
4           year;

5                   “(E) \$100,000 for the 1995 marketing  
6           year;

7                   “(F) \$75,000 for the 1996 marketing year;  
8           and

9                   “(G) \$50,000 for the 1997 marketing  
10          year.”.

11          (b) SUPPORT PRICE FOR SHORN WOOL.—Paragraph  
12          (3) of section 703(b) of such Act (7 U.S.C. 1782(b)(3))  
13          is amended to read as follows:

14                   “(3) Effective only for each of the 1994 through 1997  
15          marketing years, the support price for shorn wool shall  
16          not exceed the support price for shorn wool for the 1993  
17          marketing year.”.

18          (c) MARKETING ASSESSMENT.—Section 704(c) of  
19          such Act (7 U.S.C. 1783(c)) is amended by striking  
20          “through 1995” and inserting “and 1992”.

21          (d) MARKETING CHARGES.—Section 706 of such Act  
22          (7 U.S.C. 1785) is amended by inserting after the second  
23          sentence the following new sentence: “In determining the  
24          net sales proceeds and national payment rates for shorn

1 wool and shorn mohair, the Secretary shall not deduct  
2 marketing charges for commissions, coring, or grading.”.

3 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

4 (1) TECHNICAL AMENDMENT.—Section  
5 703(b)(2) of such Act (7 U.S.C. 1782(b)(2)) is  
6 amended by striking “1982” and inserting “1990”.

7 (2) CONFORMING AMENDMENTS.—Section 703  
8 of such Act (7 U.S.C. 1782) is amended by striking  
9 “1995” both places it appears in subsections (a) and  
10 (b) and inserting “1997”.

## 11 **Subtitle B—Restructuring of Loan** 12 **Programs**

### 13 **SEC. 1201. ELECTRIC AND TELEPHONE LOAN PROGRAMS.**

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

16 (1) INSURED LOAN PROGRAMS.—Section 305 of  
17 the Rural Electrification Act of 1936 (7 U.S.C. 935)  
18 is amended—

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

20 (B) by redesignating subsection (c) as sub-  
21 section (b); and

22 (C) by inserting after subsection (b) (as so  
23 redesignated) the following new subsections:

24 “(c) INSURED ELECTRIC LOANS.—

25 “(1) HARDSHIP LOANS.—

1           “(A) IN GENERAL.—The Administrator  
2 shall make insured electric loans, to the extent  
3 of qualifying applications for the loans, at an  
4 interest rate of 5 percent per year to any appli-  
5 cant for a loan who meets each of the following  
6 requirements:

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

12           “(ii) The average residential revenue  
13 per kilowatt-hour sold by the applicant is  
14 not less than 120 percent of the average  
15 residential revenue per kilowatt-hour sold  
16 by all utilities in the State in which the ap-  
17 plicant provides service.

18           “(iii) The average per capita income  
19 of the residents receiving electric service  
20 from the applicant is less than the average  
21 per capita income of the residents of the  
22 State in which the applicant provides serv-  
23 ice, or the median household income of the  
24 households receiving electric service from  
25 the applicant is less than the median

1 household income of the households in the  
2 State.

3 “(B) SEVERE HARDSHIP LOANS.—In addi-  
4 tion to hardship loans that are made under sub-  
5 paragraph (A), the Administrator may make an  
6 insured electric loan at an interest rate of 5  
7 percent per year to an applicant for a loan if,  
8 in the sole discretion of the Administrator, the  
9 applicant has experienced a severe hardship.

10 “(C) LIMITATION.—The Administrator  
11 may not make a loan under this paragraph to  
12 an applicant for the purpose of furnishing or  
13 improving electric service to a consumer located  
14 in an urban area (as defined by the Bureau of  
15 the Census) if the average number of consum-  
16 ers per mile of line of the total electric system  
17 of the applicant exceeds 17.

18 “(2) MUNICIPAL RATE LOANS.—

19 “(A) IN GENERAL.—The Administrator  
20 shall make insured electric loans, to the extent  
21 of qualifying applications for the loans, at the  
22 interest rate described in subparagraph (B) for  
23 the term or terms selected by the applicant pur-  
24 suant to subparagraph (C).

25 “(B) INTEREST RATE.—

1           “(i) IN GENERAL.—Subject to clause  
2           (ii), the interest rate described in this sub-  
3           paragraph on a loan to a qualifying appli-  
4           cant shall be—

5                   “(I) the interest rate determined  
6                   by the Administrator to be equal to  
7                   the current market yield on outstand-  
8                   ing municipal obligations with remain-  
9                   ing periods to maturity similar to the  
10                  term selected by the applicant pursu-  
11                  ant to subparagraph (C), but not  
12                  greater than the rate determined  
13                  under section 307(a)(3)(A) of the  
14                  Consolidated Farm and Rural Devel-  
15                  opment Act (7 U.S.C. 1927(a)(3)(A))  
16                  that is based on the current market  
17                  yield on outstanding municipal obliga-  
18                  tions; plus

19                   “(II) if the applicant for the loan  
20                   makes an election pursuant to sub-  
21                   paragraph (D) to include in the loan  
22                   agreement the right of the applicant  
23                   to prepay the loan, a rate equal to the  
24                   amount by which—

1           “(aa) the interest rate on  
2           commercial loans for a similar  
3           period that afford the borrower  
4           such a right; exceeds

5           “(bb) the interest rate on  
6           commercial loans for the period  
7           that do not afford the borrower  
8           such a right.

9           “(ii) MAXIMUM RATE.—The interest  
10          rate described in this subparagraph on a  
11          loan to an applicant for the loan shall not  
12          exceed 7 percent if—

13               “(I) the average number of con-  
14               sumers per mile of line of the total  
15               electric system of the applicant is less  
16               than 5.50; or

17               “(II)(aa) the average revenue per  
18               kilowatt-hour sold by the applicant is  
19               more than the average revenue per  
20               kilowatt-hour sold by all utilities in  
21               the State in which the applicant pro-  
22               vides service; and

23               “(bb) the average per capita in-  
24               come of the residents receiving electric  
25               service from the applicant is less than

1 the average per capita income of the  
2 residents of the State in which the ap-  
3 plicant provides service, or the median  
4 household income of the households  
5 receiving electric service from the ap-  
6 plicant is less than the median house-  
7 hold income of the households in the  
8 State.

9 “(iii) EXCEPTION.—Clause (ii) shall  
10 not apply to a loan to be made to an appli-  
11 cant for the purpose of furnishing or im-  
12 proving electric service to consumers lo-  
13 cated in an urban area (as defined by the  
14 Bureau of the Census) if the average num-  
15 ber of consumers per mile of line of the  
16 total electric system of the applicant ex-  
17 ceeds 17.

18 “(C) LOAN TERM.—

19 “(i) IN GENERAL.—Subject to clause  
20 (ii), the applicant for a loan under this  
21 paragraph may select the term for which  
22 an interest rate shall be determined pursu-  
23 ant to subparagraph (B), and, at the end  
24 of the term (and any succeeding term se-  
25 lected by the applicant under this subpara-

1 graph), may renew the loan for another  
2 term selected by the applicant.

3 “(ii) MAXIMUM TERM.—

4 “(I) APPLICANT.—The applicant  
5 may not select a term that ends more  
6 than 35 years after the beginning of  
7 the first term the applicant selects  
8 under clause (i).

9 “(II) ADMINISTRATOR.—The Ad-  
10 ministrator may prohibit an applicant  
11 from selecting a term that would re-  
12 sult in the total term of the loan being  
13 greater than the expected useful life  
14 of the assets being financed.

15 “(D) CALL PROVISION.—The Adminis-  
16 trator shall offer any applicant for a loan under  
17 this paragraph the option to include in the loan  
18 agreement the right of the applicant to prepay  
19 the loan on terms consistent with similar provi-  
20 sions of commercial loans.

21 “(3) OTHER SOURCE OF CREDIT NOT RE-  
22 QUIRED IN CERTAIN CASES.—The Administrator  
23 may not require any applicant for a loan made  
24 under this subsection who is eligible for a loan under  
25 paragraph (1) to obtain a loan from another source

1 as a condition of approving the application for the  
2 loan or advancing any amount under the loan.

3 “(d) INSURED TELEPHONE LOANS.—

4 “(1) HARDSHIP LOANS.—

5 “(A) IN GENERAL.—The Administrator  
6 shall make insured telephone loans, to the ex-  
7 tent of qualifying applications for the loans, at  
8 an interest rate of 5 percent per year, to any  
9 applicant who meets each of the following re-  
10 quirements:

11 “(i) The average number of subscrib-  
12 ers per mile of line in the proposed service  
13 area of the applicant is not more than 4.

14 “(ii) The applicant is capable of pro-  
15 ducing net income or margins, after inter-  
16 est payments on the loan applied for, of  
17 not less than 100 percent (but not more  
18 than 300 percent) of the interest require-  
19 ments on all of the outstanding and pro-  
20 posed loans of the applicant.

21 “(iii) The Administrator has approved  
22 a telecommunications modernization plan  
23 for the State under paragraph (3) and, if  
24 the plan was developed by telephone bor-

1           rowers under this title, the applicant is a  
2           participant in the plan.

3           “(B) AUTHORITY TO WAIVE TIER RE-  
4           QUIREMENT.—The Administrator may waive  
5           the requirement of subparagraph (A)(ii) in any  
6           case in which the Administrator determines  
7           (and sets forth the reasons for the waiver in  
8           writing) that the requirement would prevent  
9           emergency restoration of the telephone system  
10          of the applicant or result in severe hardship to  
11          the applicant.

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

17          “(2) COST-OF-MONEY LOANS.—

18                 “(A) IN GENERAL.—The Administrator  
19                 may make insured telephone loans for the ac-  
20                 quisition, purchase, and installation of tele-  
21                 phone lines, systems, and facilities (other than  
22                 buildings used primarily for administrative pur-  
23                 poses, vehicles not used primarily in construc-  
24                 tion, and customer premise equipment) related  
25                 to the furnishing, improvement, or extension of

1 rural telecommunications service, at an interest  
2 rate equal to the then current cost of money to  
3 the Government of the United States for loans  
4 of similar maturity, but not more than 7 per-  
5 cent per year, to any applicant for a loan who  
6 meets the following requirements:

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

10 “(ii) The applicant is capable of pro-  
11 ducing net income or margins, before in-  
12 terest payments on the loan applied for, of  
13 not less than 100 percent (but not more  
14 than 500 percent) of the interest require-  
15 ments on all of the outstanding and pro-  
16 posed loans of the applicant.

17 “(iii) The Administrator has approved  
18 a telecommunications modernization plan  
19 for the State under paragraph (3), and, if  
20 the plan was developed by telephone bor-  
21 rowers under this title, the applicant is a  
22 participant in the plan.

23 “(B) CALL PROVISION.—The Adminis-  
24 trator shall offer any applicant for a loan under  
25 this paragraph the option to include in the loan

1 agreement the right of the applicant to prepay  
2 the loan on terms consistent with similar provi-  
3 sions of commercial loans.

4 “(C) CONCURRENT LOAN AUTHORITY.—On  
5 request of any applicant for a loan under this  
6 paragraph during any fiscal year, the Adminis-  
7 trator shall—

8 “(i) consider the application to be for  
9 a loan under this paragraph and a loan  
10 under section 408; and

11 “(ii) if the applicant is eligible for a  
12 loan, make a loan to the applicant under  
13 this paragraph in an amount equal to the  
14 amount that bears the same ratio to the  
15 total amount of loans for which the appli-  
16 cant is eligible under this paragraph and  
17 under section 408, as the amount made  
18 available for loans under this paragraph  
19 for the fiscal year bears to the total  
20 amount made available for loans under this  
21 paragraph and under section 408 for the  
22 fiscal year.

23 “(D) EFFECT OF LACK OF FUNDS.—On  
24 request of any applicant who is eligible for a  
25 loan under this paragraph for which funds are

1 not available, the applicant shall be considered  
2 to have applied for a loan guarantee under  
3 section 306.

4 “(3) STATE TELECOMMUNICATIONS MOD-  
5 ERNIZATION PLANS.—

6 “(A) APPROVAL.—If, not later than 180  
7 days after final regulations are promulgated to  
8 carry out this paragraph, the public utility com-  
9 mission of any State develops a telecommuni-  
10 cations modernization plan that meets the re-  
11 quirements of subparagraph (B), the Adminis-  
12 trator shall approve the plan for the State. If  
13 a State does not develop a plan in accordance  
14 with the requirements of the preceding sen-  
15 tence, the Administrator shall approve any tele-  
16 communications modernization plan for the  
17 State that meets the requirements that is devel-  
18 oped by a majority of the borrowers of tele-  
19 phone loans made under this title who are  
20 located in the State.

21 “(B) REQUIREMENTS.—For purposes of  
22 subparagraph (A), a telecommunications mod-  
23 ernization plan must, at a minimum, meet the  
24 following objectives:

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

3           “(ii) The plan must provide for the  
4           availability of telecommunications services  
5           for improved business, educational, and  
6           medical services.

7           “(iii) The plan must encourage and  
8           improve computer networks and informa-  
9           tion highways for subscribers in rural  
10          areas.

11          “(iv) The plan must provide for—

12                  “(I) subscribers in rural areas to  
13                  be able to receive through telephone  
14                  lines—

15                          “(aa) multiple voices;

16                          “(bb) video images; and

17                          “(cc) data at a rate of at  
18                          least 1,000,000 bits of informa-  
19                          tion per second; and

20                  “(II) the proper routing of infor-  
21                  mation to subscribers.

22          “(v) The plan must provide for uni-  
23          form deployment schedules to ensure that  
24          advanced services are deployed at the same  
25          time in rural and nonrural areas.

1           “(vi) The plan must provide for such  
2 additional requirements for service stand-  
3 ards as may be required by the Adminis-  
4 trator.

5           “(C) FINALITY OF APPROVAL.—

6           “(i) IN GENERAL.—A telecommuni-  
7 cations modernization plan approved under  
8 subparagraph (A) may not subsequently be  
9 disapproved. Notwithstanding subsection  
10 (c)(1)(A)(iii), subsection (c)(2)(A)(iii), and  
11 section 408(b)(4)(C), the Administrator  
12 and the Governor of the telephone bank  
13 may make a loan to a borrower serving a  
14 State that does not have a telecommuni-  
15 cation modernization plan approved by the  
16 Administrator if the loan is made less than  
17 1 year after the Administrator has adopted  
18 final regulations implementing subsection  
19 (c)(3).”.

20           (2) RURAL TELEPHONE BANK LOAN PRO-  
21 GRAM.—Section 408 of such Act (7 U.S.C. 948) is  
22 amended—

23           (A) in subsection (a), by striking “, (2)”  
24 and all that follows through “408 of this Act,”  
25 and inserting “, (2) for the acquisition, pur-

1 chase, and installation of telephone lines, sys-  
2 tems, and facilities (other than buildings used  
3 primarily for administrative purposes, vehicles  
4 not used primarily in construction, and cus-  
5 tomer premise equipment) related to the fur-  
6 nishing, improvement, or extension of rural tele-  
7 communications service,”; and

8 (B) in subsection (b)—

9 (i) by striking paragraph (4) and in-  
10 sserting the following new paragraph:

11 “(4) The Governor of the telephone bank may  
12 make a loan under this section only to an applicant  
13 for the loan who meets the following requirements:

14 “(A) The average number of subscribers  
15 per mile of line in the service area of the appli-  
16 cant is not more than 15.

17 “(B) The applicant is capable of producing  
18 net income or margins, after interest payments  
19 on the loan applied for, of not less than 100  
20 percent (but not more than 500 percent) of the  
21 interest requirements on all of the outstanding  
22 and proposed loans of the applicant.

23 “(C) The Administrator has approved,  
24 under section 305(d)(3), a telecommunications  
25 modernization plan for the State in which the

1 applicant is located, and, if the plan was devel-  
2 oped by telephone borrowers under title III, the  
3 applicant is a participant in the plan.”;

4 (ii) in paragraph (8)—

5 (I) by inserting “(A)” after  
6 “(8)”;

7 (II) by striking “if such prepay-  
8 ment is not made later than Septem-  
9 ber 30, 1988” and inserting “except  
10 for any prepayment penalty provided  
11 for in a loan agreement entered into  
12 before the date of enactment of the  
13 Omnibus Budget Reconciliation Act of  
14 1993”; and

15 (III) by adding at the end the  
16 following new subparagraph:

17 “(B) If a borrower prepays part or all of a loan  
18 made under this section, then, notwithstanding sec-  
19 tion 407(b), the Governor of the telephone bank  
20 shall use the full amount of the prepayment to repay  
21 obligations of the telephone bank issued pursuant to  
22 section 407(b) before October 1, 1991, to the extent  
23 any such obligations are outstanding.”; and

24 (iii) by adding at the end the follow-  
25 ing new paragraphs:

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

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

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

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

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

1 **“SEC. 314. LIMITATIONS ON AUTHORIZATION OF APPRO-**  
2 **PRIATIONS.**

3 “(a) DEFINITION OF ADJUSTMENT PERCENTAGE.—  
4 As used in this section, the term ‘adjustment percentage’  
5 means, with respect to a fiscal year, the percentage (if  
6 any) by which—

7 “(1) the average of the Consumer Price Index  
8 (as defined in section 1(f)(5) of the Internal Reve-  
9 nue Code of 1986) for the 1-year period ending on  
10 July 31 of the immediately preceding fiscal year;  
11 exceeds

12 “(2) the average of the Consumer Price Index  
13 (as so defined) for the 1-year period ending on July  
14 31, 1993.

15 “(b) FISCAL YEARS 1994 THROUGH 1998.—In the  
16 case of each of fiscal years 1994 through 1998, there are  
17 authorized to be appropriated to the Administrator such  
18 sums as may be necessary for the cost of loans in the  
19 following amounts, for the following purposes:

20 “(1) ELECTRIC HARDSHIP LOANS.—For loans  
21 under section 305(c)(1)—

22 “(A) for fiscal year 1994, \$125,000,000;  
23 and

24 “(B) for each of fiscal years 1995 through  
25 1998, \$125,000,000, increased by the adjust-  
26 ment percentage for the fiscal year.

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

3                   “(A) for fiscal year 1994, \$600,000,000;  
4           and

5                   “(B) for each of fiscal years 1995 through  
6           1998, \$600,000,000, increased by the adjust-  
7           ment percentage for the fiscal year.

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

10                   “(A) for fiscal year 1994, \$125,000,000;  
11           and

12                   “(B) for each of fiscal years 1995 through  
13           1998, \$125,000,000, increased by the adjust-  
14           ment percentage for the fiscal year.

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

17                   “(A) for fiscal year 1994, \$198,000,000;  
18           and

19                   “(B) for each of fiscal years 1995 through  
20           1998, \$198,000,000, increased by the adjust-  
21           ment percentage for the fiscal year.

22           “(c) FUNDING LEVELS.—The Administrator shall  
23           make insured loans under this title for the purposes, in  
24           the amounts, and for the periods of time specified in sub-  
25           section (b), as provided in advance in appropriations Acts.

1       “(d) AVAILABILITY OF FUNDS FOR INSURED  
2 LOANS.—Amounts made available for loans under section  
3 305 are authorized to remain available until expended.”.

4           (4) MISCELLANEOUS AMENDMENTS.—

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

7           (i) by inserting “(a)” before “The Ad-  
8 ministrator”;

9           (ii) by striking “telephone service in  
10 rural areas, as hereinafter provided;” and  
11 inserting “electric and telephone service in  
12 rural areas, as provided in this Act, and  
13 for the purpose of assisting electric bor-  
14 rowers to implement demand side manage-  
15 ment and energy conservation programs;”;  
16 and

17           (iii) by adding at the end the follow-  
18 ing new subsection:

19       “(b) Not later than January 1, 1994, the Adminis-  
20 trator shall issue interim regulations to implement the au-  
21 thority contained in subsection (a) to make loans for the  
22 purpose of assisting electric borrowers to implement de-  
23 mand side management and energy conservation pro-  
24 grams. If the regulations are not issued by January 1,  
25 1994, the Administrator shall consider any demand side

1 management program that is approved by a State agency  
2 to be eligible for the loans.”.

3 (B) Section 4 of such Act (7 U.S.C. 904)  
4 is amended by inserting after “central station  
5 service” the following: “and for the furnishing  
6 and improving of electric service to persons in  
7 rural areas, including by assisting electric bor-  
8 rowers to implement demand side management  
9 and energy conservation programs”.

10 (C) Section 13 of such Act (7 U.S.C. 913)  
11 is amended—

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

15 (ii) by striking “city, village, or bor-  
16 ough having a population in excess of fif-  
17 teen hundred inhabitants” and inserting  
18 “urban area, as defined by the Bureau of  
19 the Census”.

20 (D) Section 203(b) of such Act (7 U.S.C.  
21 924(b)) is amended by striking “one thousand  
22 five hundred” and inserting “5,000”.

23 (E) Section 305 of such Act (7 U.S.C.  
24 935) (as amended by subsection (a)(1)) is fur-  
25 ther amended—

1 (i) by striking “SEC. 305. INSURED  
2 LOANS; INTEREST RATES AND LENDING  
3 LEVELS.—(a) The” and inserting the fol-  
4 lowing:

5 **“SEC. 305. INSURED LOANS; INTEREST RATES AND LEND-  
6 ING LEVELS.**

7 “(a) IN GENERAL.—The”; and

8 (ii) in subsection (b), by striking “(b)  
9 Loans” and inserting “(b) INSURED  
10 LOANS.—Loans”.

11 (F) Section 307 of such Act (7 U.S.C.  
12 937) is amended by adding at the end the fol-  
13 lowing new sentence: “The Administrator may  
14 not request any applicant for an electric loan  
15 under this Act to apply for and accept a loan  
16 in an amount exceeding 30 percent of the credit  
17 needs of the applicant.”.

18 (G) Section 406 of such Act (7 U.S.C.  
19 946) is amended by adding at the end the  
20 following new subsection:

21 “(i) The Governor of the telephone bank may invest  
22 in obligations of the United States the amounts in the ac-  
23 count in the Treasury of the United States numbered  
24 12X8139 (known as the ‘RTB Equity Fund’).”.

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

3 (i) by inserting “(a) NO CONSIDER-  
4 ATION OF BORROWER’S LEVEL OF GEN-  
5 ERAL FUNDS.—” before “The Adminis-  
6 trator”; and

7 (ii) by adding at the end the following  
8 new subsections:

9 “(b) NO LOAN ORIGINATION FEES.—The Adminis-  
10 trator and the Governor of the telephone bank may not  
11 charge any fee or charge not expressly provided in this  
12 Act in connection with any loan made or guaranteed under  
13 this Act.

14 “(c) CONSULTANTS.—

15 “(1) IN GENERAL.—To facilitate timely action  
16 on applications by borrowers for financial assistance  
17 under this Act and for approvals required of the  
18 agency pursuant to the terms of outstanding loan or  
19 security instruments or otherwise, the Administrator  
20 may use consultants funded by the borrower, paid  
21 for out of the general funds of the borrower, for fi-  
22 nancial, legal, engineering, and other technical ad-  
23 vice and services in connection with the review of the  
24 application by the Rural Electrification Administra-  
25 tion.

1           “(2) CONFLICTS OF INTEREST.—The Adminis-  
2           trator shall establish procedures for the selection  
3           and the provision of technical services by consultants  
4           to ensure that the consultants have no financial or  
5           other potential conflicts of interest in the outcome of  
6           the application of the borrower.

7           “(3) PAYMENT OF COSTS.—The Administrator  
8           may not, without the consent of the borrower, re-  
9           quire, as a condition of processing an application for  
10          approval, that the borrower agree to pay the costs,  
11          fees, and expenses of consultants hired to provide  
12          technical or advisory services to the Administrator.

13          “(4) CONTRACTS, GRANTS, AND AGREE-  
14          MENTS.—The Administrator may enter into such  
15          contracts, grants, or cooperative agreements as are  
16          necessary to carry out this section without regard to  
17          any requirement for competition, section 3709 of the  
18          Revised Statutes (41 U.S.C. 5) and section 3324 of  
19          title 31, United States Code.

20          “(5) USE OF CONSULTANTS.—Nothing in this  
21          subsection shall limit the authority of the Adminis-  
22          trator to retain the services of consultants from  
23          funds made available to the Administrator or other-  
24          wise.”.

1 (I) Title III of such Act is amended by in-  
2 serting after section 306B (7 U.S.C. 936b) the  
3 following new sections:

4 **“SEC. 306C. ELIGIBILITY OF DISTRIBUTION BORROWERS**  
5 **FOR LOANS, LOAN GUARANTEES, AND LIEN**  
6 **ACCOMMODATIONS.**

7 “For the purpose of determining the eligibility of a  
8 distribution borrower not in default on the repayment of  
9 a loan made or guaranteed under this Act for a loan, loan  
10 guarantee, or lien accommodation under this title, a de-  
11 fault by a borrower from which the distribution borrower  
12 purchases wholesale power shall not—

13 “(1) be considered a default by the distribution  
14 borrower;

15 “(2) reduce the eligibility of the distribution  
16 borrower for assistance under this Act; or

17 “(3) be the cause, directly or indirectly, of im-  
18 posing any requirement or restriction on the bor-  
19 rower as a condition of the assistance, except such  
20 requirements or restrictions as are necessary to im-  
21 plement a debt restructuring agreed on by the power  
22 supply borrower and the Government.

1 **“SEC. 306D. ADMINISTRATIVE PROHIBITIONS APPLICABLE**  
2 **TO ELECTRIC BORROWERS.**

3 “The Administrator may not require prior approval  
4 of, impose any requirement, restriction, or prohibition with  
5 respect to the operations of, or deny or delay the granting  
6 of a lien accommodation to, any electric borrower under  
7 this Act whose net worth exceeds 110 percent of the out-  
8 standing principal balance on all loans made or guaran-  
9 teed to the borrower by the Administrator.”.

10 (b) EXPANDED ELIGIBILITY FOR LOANS FOR WATER  
11 AND WASTE DISPOSAL FACILITIES.—Section 306(a)(1) of  
12 the Consolidated Farm and Rural Development Act (7  
13 U.S.C. 1926(a)(1)) is amended by inserting after the first  
14 sentence the following new sentence: “The Secretary may  
15 also make loans to any borrower to whom a loan has been  
16 made under the Rural Electrification Act of 1936 (7  
17 U.S.C. 901 et seq.), for the conservation, development,  
18 use, and control of water, and the installation of drainage  
19 or waste disposal facilities, primarily serving farmers,  
20 ranchers, farm tenants, farm laborers, rural businesses,  
21 and other rural residents.”.

22 (c) RURAL ECONOMIC DEVELOPMENT.—Section 364  
23 of the Consolidated Farm and Rural Development Act (7  
24 U.S.C. 2006f) is amended by adding at the end the follow-  
25 ing new subsection:

26 “(g) RURAL ECONOMIC DEVELOPMENT.—

1           “(1) IN GENERAL.—A borrower of a loan or  
2           loan guarantee under the Rural Electrification Act  
3           of 1936 (7 U.S.C. 901 et seq.) shall be eligible for  
4           assistance under all programs administered by the  
5           Rural Development Administration.

6           “(2) PARTICIPATION.—The Administrator of  
7           the Rural Development Administration shall encour-  
8           age and facilitate the full participation of borrowers  
9           referred to in paragraph (1) in programs adminis-  
10          tered by the Rural Development Administration.”.

11          (d) REGULATIONS.—Not later than October 1, 1993,  
12          interim final rules shall be issued by—

13               (1) the Administrator of the Rural Electrifica-  
14               tion Administration in the case of amendments made  
15               by this section to programs administered by the  
16               Administrator; and

17               (2) the Administrator of the Rural Development  
18               Administration in the case of amendments made by  
19               this section to programs administered by the Admin-  
20               istrator.

## 21       **Subtitle C—Food Stamp Program**

### 22       **SEC. 1301. UNIFORM REIMBURSEMENT RATES.**

23          (a) IN GENERAL.—Section 16 of the Food Stamp Act  
24          of 1977 (7 U.S.C. 2025) is amended—

25               (1) in the first sentence of subsection (a)—

1 (A) by striking “and (5)” and inserting  
2 “(5)”;

3 (B) by inserting before “: *Provided,*” the  
4 following: “, (6) automated data processing and  
5 information retrieval systems subject to the  
6 conditions set forth in subsection (g), (7) food  
7 stamp program investigations and prosecutions,  
8 and (8) implementing and operating the immi-  
9 gration status verification system established  
10 under section 1137(d) of the Social Security  
11 Act (42 U.S.C. 1320b–7(d))”; and

12 (C) in the proviso, by striking “authorized  
13 to pay each State agency an amount not less  
14 than 75 per centum of the costs of State food  
15 stamp program investigations and prosecutions,  
16 and is further”;

17 (2) in subsection (g)—

18 (A) by striking “an amount equal to 63  
19 percent effective on October 1, 1991, of” and  
20 inserting “the amount authorized under sub-  
21 section (a)(6) for”; and

22 (B) by striking “automatic” and inserting  
23 “automated”;

24 (3) by striking subsection (j); and

1           (4) by redesignating subsection (k) as sub-  
2 section (j).

3           (b) EFFECTIVE DATE.—

4           (1) IN GENERAL.—Except as provided in para-  
5 graph (2), the amendments made by this section  
6 shall be effective with respect to calendar quarters  
7 beginning on or after April 1, 1994.

8           (2) BIENNIAL LEGISLATURES.—In the case of a  
9 State whose legislature meets biennially, and does  
10 not have a regular session scheduled in calendar  
11 year 1994, and that demonstrates to the satisfaction  
12 of the Secretary of Agriculture that there is no  
13 mechanism, under the constitution and laws of the  
14 State, for appropriating the additional funds re-  
15 quired by the amendments made by this section be-  
16 fore the next such regular legislative session, the  
17 Secretary may delay the effective date of all or part  
18 of the amendments made by subsection (a) until the  
19 beginning date of a calendar quarter that is not  
20 later than the first calendar quarter beginning after  
21 the close of the first regular session of the State leg-  
22 islature after the date of enactment of this Act.

## 1       **Subtitle D—Agricultural Trade**

### 2       **SEC. 1401. MARKET PROMOTION PROGRAM.**

3       (a) REDUCTION OF FUNDING LEVEL.—Section  
4       211(c) of the Agricultural Trade Act of 1978 (7 U.S.C.  
5       5641(c)) is amended—

6               (1) in paragraph (1)—

7                       (A) by striking “1995” and inserting  
8                       “1993”; and

9                       (B) by striking “and” at the end;

10              (2) by redesignating paragraph (2) as para-  
11              graph (3); and

12              (3) by inserting after paragraph (1) the follow-  
13              ing new paragraph:

14                       “(2) in addition to any funds that may be spe-  
15                       cifically appropriated to implement a market devel-  
16                       opment program, for each of fiscal years 1994 and  
17                       1995, of the funds of, or an equal value of commod-  
18                       ities owned by, the Commodity Credit Corporation—

19                               “(A) not less than \$33,000,000 for—

20                                       “(i) branded promotion activities in-  
21                                       volving small-sized commercial entities and  
22                                       medium-sized commercial entities that are  
23                                       beginning exporters; and

24                                       “(ii) activities other than branded pro-  
25                                       motion activities that only benefit small-

1            sized commercial entities and medium-  
2            sized commercial entities, or (as deter-  
3            mined by the Secretary) small-sized agri-  
4            cultural producers and medium-sized agri-  
5            cultural producers; and

6            “(B) in addition to funding specified in  
7            subparagraph (A), not less than \$77,000,000  
8            for program activities by any eligible trade or-  
9            ganization, including organizations specified  
10           under subparagraph (A); and”.

11        (b) DEFINITIONS.—Section 102 of such Act (7  
12 U.S.C. 5602) is amended by adding at the end the follow-  
13 ing new paragraph:

14           “(9) COMMERCIAL ENTITY.—

15           “(A) IN GENERAL.—The term ‘commercial  
16           entity’ means a cooperative or private organiza-  
17           tion that exports or promotes an agricultural  
18           commodity, including an entity that controls, is  
19           controlled by, or is under common control with  
20           such a cooperative or private organization.

21           “(B) MEDIUM-SIZED COMMERCIAL EN-  
22           TITY.—The term ‘medium-sized commercial en-  
23           tity’ means a commercial entity that employs  
24           not less than 51, nor more than 500, individ-  
25           uals.

1           “(C) SMALL-SIZED COMMERCIAL EN-  
2           TITY.—The term ‘small-sized commercial entity’  
3           means a commercial entity that employs not  
4           more than 50 individuals.”.

5 **SEC. 1402. ACREAGE REDUCTION REQUIREMENTS.**

6           (a) IN GENERAL.—Section 1104 of the Omnibus  
7 Budget Reconciliation Act of 1990 (7 U.S.C. 1445b–3a  
8 note) is amended—

9           (1) in subsection (a), by striking paragraph (2)  
10          and inserting the following new paragraph:

11          “(2) corn under which the acreage planted to  
12          corn for harvest on a farm would be limited to the  
13          corn crop acreage base for the farm for the crop re-  
14          duced by not less than 7½ percent.”; and

15          (2) in subsection (b)(2), by striking “grain sor-  
16          ghum, and barley,”.

17          (b) READJUSTMENT OF SUPPORT LEVELS.—Section  
18 1302 of such Act (7 U.S.C. 1421 note) is amended—

19          (1) in subsection (b)—

20                  (A) by striking paragraph (1); and

21                  (B) by redesignating paragraphs (2) and  
22          (3) as paragraphs (1) and (2), respectively;

23          (2) in subsection (c), by striking “and other  
24          programs”; and

25          (3) in subsection (d)—

- 1 (A) in paragraph (1)—
- 2 (i) by striking subparagraph (A); and
- 3 (ii) by redesignating subparagraphs
- 4 (B) and (C) as subparagraphs (A) and
- 5 (B), respectively;
- 6 (B) in paragraph (2), by striking “(A),
- 7 (B), and (C)” and inserting “(A) and (B)”; and
- 8 (C) in paragraph (3)—
- 9 (i) by striking “measures specified in
- 10 subparagraph (A) of paragraph (1) and”;
- 11 and
- 12 (ii) by striking “(B) or (C)” and in-
- 13 serting “(A) or (B)”.

14 **SEC. 1403. END-USE CERTIFICATES.**

15 (a) IN GENERAL.—Subtitle A of title IV of the Agri-

16 cultural Trade Act of 1978 (7 U.S.C. 5661 et seq.) is

17 amended—

- 18 (1) by redesignating section 404 (7 U.S.C.
- 19 5664) as section 405; and
- 20 (2) by inserting after section 403 the following
- 21 new section:

22 **“SEC. 404. END-USE CERTIFICATES.**

23 “(a) DEFINITIONS.—As used in this section:

- 24 “(1) COVERED FOREIGN COMMODITY.—The
- 25 term ‘covered foreign commodity’ means any wheat

1 or barley produced in a foreign country that is im-  
2 ported into the United States, including any im-  
3 ported commodity that will be subsequently commin-  
4 gled with a like commodity produced in the United  
5 States.

6 “(2) END-USE CERTIFICATE.—The term ‘end-  
7 use certificate’ means a certification that describes—

8 “(A) the class, quantity, and country of or-  
9 igin of the covered foreign commodity;

10 “(B) the importer and consignee of the  
11 covered foreign commodity;

12 “(C) the end use for which the consignee  
13 will use the covered foreign commodity; and

14 “(D) at the option of the Secretary, the  
15 sales price and quality of the covered foreign  
16 commodity.

17 “(b) STATEMENT OF PURPOSE.—The Secretary shall  
18 improve monitoring of the end use of covered foreign com-  
19 modities, as provided in this section, in order to ensure  
20 that exports of agricultural commodities under the pro-  
21 grams authorized by this Act and other agricultural trade  
22 programs are entirely produced in the United States.

23 “(c) REQUIREMENT ON COVERED FOREIGN COM-  
24 MODITIES.—The Commissioner of Customs shall not per-  
25 mit the entry into, or the withdrawal from a warehouse

1 for use in, the United States of a covered foreign commod-  
2 ity, unless the importer of record presents an end-use cer-  
3 tificate for the covered foreign commodity that complies  
4 with this section at the time of entry or withdrawal, as  
5 appropriate.

6 “(d) MAINTENANCE OF CERTIFICATE WITH COV-  
7 ERED FOREIGN COMMODITY.—The end-use certificate  
8 shall be maintained with the covered foreign commodity  
9 until the commodity reaches the end use of the commodity  
10 within the United States. The end use of a covered foreign  
11 commodity includes feeding to livestock, first stage proc-  
12 essing for human consumption, exporting from the United  
13 States, or (as determined by the Secretary) other end  
14 uses.

15 “(e) CERTIFICATION.—The Secretary shall require  
16 any importer or consignee of a covered foreign commodity  
17 to certify, on a quarterly basis, the end use or transfer,  
18 during the period the commodity is a covered foreign com-  
19 modity, by the importer or consignee, along with any addi-  
20 tional information the Secretary determines to be appro-  
21 priate.

22 “(f) COMPLIANCE.—Subsections (b), (c), and (d) of  
23 section 402 shall apply to an importer or consignee of a  
24 covered foreign commodity subject to the terms and condi-  
25 tions specified in this section.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall become effective on the date that is  
3 120 days after the date of enactment of this Act.

4 **SEC. 1404. SENSE OF CONGRESS REGARDING THE EXPORT**  
5 **OF VEGETABLE OIL.**

6 It is the sense of Congress that the Secretary of Agri-  
7 culture should continue aggressively to promote the export  
8 of vegetable oil through all available authorities, including  
9 but not limited to the export enhancement program estab-  
10 lished under section 301 of the Agricultural Trade Act of  
11 1978 (7 U.S.C. 5651).

12 **Subtitle E—Miscellaneous**

13 **SEC. 1501. FEDERAL CROP INSURANCE.**

14 (a) ACTUARIAL SOUNDNESS.—Section 506 of the  
15 Federal Crop Insurance Act (7 U.S.C. 1506) is amended  
16 by adding at the end the following new subsection:

17 “(n) ACTUARIAL SOUNDNESS.—The Corporation  
18 shall take such actions as are necessary to improve the  
19 actuarial soundness of Federal multiperil crop insurance  
20 coverage made available under this title to achieve, on and  
21 after October 1, 1995, an overall projected loss ratio of  
22 not greater than 1.1, including—

23 “(1) instituting appropriate requirements for  
24 documentation of the actual production history of in-  
25 sured producers to establish recorded or appraised

1 yields for Federal crop insurance coverage that more  
2 accurately reflect the associated actuarial risk, ex-  
3 cept that the Corporation may not carry out this  
4 paragraph in a manner that would prevent begin-  
5 ning farmers from obtaining adequate Federal crop  
6 insurance, as determined by the Corporation;

7 “(2) establishing in counties, to the extent prac-  
8 ticable, a crop insurance option based on area yields  
9 in a manner that allows an insured producer to qual-  
10 ify for an indemnity if a loss has occurred in a speci-  
11 fied area in which the farm of the insured producer  
12 is located;

13 “(3) establishing a database that contains the  
14 social security account and employee identification  
15 numbers of participating producers and using the  
16 numbers to identify insured producers who are high  
17 risk for actuarial purposes and insured producers  
18 who have not documented at least 4 years of produc-  
19 tion history, to assess the performance of insurance  
20 providers, and for other purposes permitted by law;  
21 and

22 “(4) taking any other measures authorized by  
23 law to improve the actuarial soundness of the Fed-  
24 eral crop insurance program while maintaining

1 fairness and effective coverage for agricultural  
2 producers.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) REINSURANCE.—Section 508(h) of such Act  
5 (7 U.S.C. 1508(h)) is amended by striking the fifth  
6 sentence and inserting the following new sentence:  
7 “The Corporation shall also pay operating and ad-  
8 ministrative costs to insurers of policies on which the  
9 Corporation provides reinsurance in an amount de-  
10 termined by the Corporation.”.

11 (2) AREA YIELD PLAN.—Section 508 of such  
12 Act (7 U.S.C. 1508) is amended by adding at the  
13 end the following new subsection:

14 “(n) AREA YIELD PLAN.—

15 “(1) IN GENERAL.—Notwithstanding any other  
16 provision of this title, the Corporation may offer,  
17 only as an option to individual crop insurance cov-  
18 erage available under this Act, a crop insurance plan  
19 based on an area yield that allows an insured pro-  
20 ducer to qualify for an indemnity if a loss has oc-  
21 curred in an area, as specified by the Corporation,  
22 in which the farm of the producer is located.

23 “(2) LEVEL OF COVERAGE.—Under a plan of-  
24 fered under paragraph (1), an insured producer  
25 shall be allowed to select the level of production at

1       which an indemnity will be paid consistent with  
2       terms and conditions established by the Corpora-  
3       tion.”.

4               (3) YIELD COVERAGE.—Section 508A of such  
5       Act (7 U.S.C. 1508a) is amended—

6                       (A) in subsection (a)(1), by striking “may”  
7                       and inserting “shall”; and

8                       (B) in subsection (b)—

9                               (i) in paragraph (1)(A)—

10                                       (I) by striking “A crop insurance  
11                                       contract” and all that follows through  
12                                       “producer—” and inserting “Under  
13                                       regulations issued by the Corporation,  
14                                       a crop insurance contract offered  
15                                       under this title to an eligible insured  
16                                       producer of a commodity with respect  
17                                       to which the Corporation provides  
18                                       crop insurance coverage shall make  
19                                       available to the producer either—”;

20                                       (II) by striking “or” at the end  
21                                       of clause (i);

22                                       (III) in clause (ii)—

23   (aa) by striking “5” and in-  
24   serting “4 building to 10”; and

1 (bb) by striking the period  
2 at the end and inserting “; or”;  
3 and

4 (IV) by adding at the end the fol-  
5 lowing new clause:

6 “(iii) yield coverage based on—

7 (I) not less than 65 percent of  
8 the transitional yield of the producer  
9 (adjusted to reflect actual experience),  
10 as specified in regulations issued by  
11 the Corporation based on production  
12 history requirements; or

13 (II) the area yield under section  
14 508(n) for the crop established under  
15 the program for the commodity in-  
16 volved.”;

17 (ii) in paragraph (1)(B)—

18 (I) by striking “two” and insert-  
19 ing “3”; and

20 (II) by inserting after “subpara-  
21 graph (A)” the following: “, where  
22 available (as determined by the Cor-  
23 poration),”;

24 (iii) in paragraph (2)—

1 (I) by striking “5” and inserting  
2 “4 building to 10”; and

3 (II) by inserting after “previous  
4 crops,” the following: “not less than  
5 65 percent of the transitional yield of  
6 the producer (adjusted to reflect ac-  
7 tual experience), or the area yield,”;  
8 and

9 (iv) in paragraph (3)(A)(i), by insert-  
10 ing after “farm program yield” the follow-  
11 ing: “, not less than 65 percent of the  
12 transitional yield of the producer (adjusted  
13 to reflect actual experience), as specified in  
14 regulations issued by the Corporation  
15 based on production history requirements,  
16 or the area yield under section 508(n),  
17 whichever is applicable,”.

18 (c) EFFECTIVE DATE.—

19 (1) IN GENERAL.—Except as provided in para-  
20 graph (2), this section and the amendments made by  
21 this section shall become effective on October 1,  
22 1993.

23 (2) REGULATIONS.—Not later than 30 days  
24 after the date of enactment of this Act, the Sec-  
25 retary of Agriculture shall publish, for public com-

1       ment, proposed regulations to implement the amend-  
2       ments made by this section.

3       **SEC. 1502. ENVIRONMENTAL CONSERVATION ACREAGE RE-**  
4       **SERVE PROGRAM AMENDMENTS.**

5       Subtitle D of title XII of the Food Security Act of  
6       1985 (16 U.S.C. 3830 et seq.) is amended—

7           (1) in section 1230(b) (16 U.S.C. 3830(b)), by  
8       striking “to place in” and all that follows through  
9       “acres”;

10          (2) in section 1231(d) (16 U.S.C. 3831(d))—

11           (A) by striking “may” and inserting  
12       “shall”;

13           (B) by striking “the amount of acres speci-  
14       fied in section 1230(b)” and inserting “a total  
15       of 38,000,000 acres during the 1986 through  
16       1995 calendar years”; and

17           (C) by striking “each of calendar years  
18       1994 and 1995” and inserting “the 1995 cal-  
19       endar year”;

20          (3) in section 1237 (16 U.S.C. 3837)—

21           (A) by striking subsection (b) and insert-  
22       ing the following new subsection:

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

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

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

5           (B) in subsection (c), by striking “1995”  
6 and inserting “2000”; and

7           (4) in section 1241 (16 U.S.C. 3841)—

8           (A) in subsection (a)—

9           (i) by striking “(a)(1) During each of  
10 the fiscal years ending September 30,  
11 1986, and September 30, 1987” and in-  
12 serting “(a) During each of fiscal years  
13 1994 through 2000”; and

14           (ii) by striking paragraph (2); and

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

17 **SEC. 1503. ADMISSION, ENTRANCE, AND RECREATION FEES.**

18           (a) DEFINITIONS.—As used in this section:

19           (1) AREA OF CONCENTRATED PUBLIC USE.—

20           The term “area of concentrated public use” means  
21 an area administered by the Secretary that meets  
22 each of the following criteria:

23           (A) The area is managed primarily for out-  
24 door recreation purposes.

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

4 (C) The area contains at least one major  
5 recreation attraction.

6 (D) Public access to the area is provided  
7 in such a manner that admission fees can be ef-  
8 ficiently collected at 1 or more centralized loca-  
9 tions.

10 (2) BOAT LAUNCHING FACILITY.—The term  
11 “boat launching facility” includes any boat launch-  
12 ing facility, regardless of whether specialized facili-  
13 ties or services, such as mechanical or hydraulic boat  
14 lifts or facilities, are provided.

15 (3) CAMPGROUND.—The term “campground”  
16 means any campground where a majority of the fol-  
17 lowing amenities are provided, as determined by the  
18 Secretary:

19 (A) Tent or trailer spaces.

20 (B) Drinking water.

21 (C) An access road.

22 (D) Refuse containers.

23 (E) Toilet facilities.

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

4 (G) Reasonable visitor protection.

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

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

10 (b) AUTHORITY TO IMPOSE FEES.—The Secretary—

11 (1) may charge admission or entrance fees at  
12 national monuments, national volcanic monuments,  
13 national scenic areas, and areas of concentrated  
14 public use administered by the Secretary;

15 (2) acting through the Forest Service, shall re-  
16 imburse the Agricultural Stabilization and Conserva-  
17 tion Service for administrative costs incurred under  
18 the Stewardship Incentive Program for the actual  
19 cost of services provided by the Agricultural Sta-  
20 bilization and Conservation Service, except that the  
21 actual costs shall not exceed 10 percent of the total  
22 annual appropriation for the program; and

23 (3) may charge recreation use fees at lands ad-  
24 ministered by the Secretary in connection with the  
25 use of specialized outdoor recreation sites, equip-



1           “(A) GENERAL RULE.—The Secretary  
2 shall increase the retired pay of each member  
3 and former member who first became a member  
4 of a uniformed service before August 1, 1986,  
5 by the percent (adjusted to the nearest one-  
6 tenth of 1 percent) by which—

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

9                   “(ii) the base index.

10           “(B) SPECIAL RULES FOR FISCAL YEARS  
11 1994 THROUGH 1998.—

12                   “(i) FISCAL YEARS 1994 THROUGH  
13 1997.—In the case of an increase in retired  
14 pay that, pursuant to paragraph (1), be-  
15 comes effective on December 1 of 1993,  
16 1994, 1995, or 1996, the initial month for  
17 which such increase is payable as part of  
18 such retired pay shall (notwithstanding  
19 such December 1 effective date) be Sep-  
20 tember of the following year.

21                   “(ii) FISCAL YEAR 1998.—In the case  
22 of an increase in retired pay that, pursuant  
23 to paragraph (1), becomes effective on De-  
24 cember 1, 1997, the initial month for  
25 which such increase is payable as part of

1           such retired pay shall (notwithstanding  
2           such December 1 effective date) be August  
3           1998.

4           “(C) INAPPLICABILITY TO DISABILITY RE-  
5           TIREES.—Subparagraph (B) does not apply  
6           with respect to the retired pay of a member re-  
7           tired under chapter 61 of this title.”.

8       **TITLE        III—COMMITTEE        ON**  
9       **BANKING,       HOUSING,       AND**  
10      **URBAN AFFAIRS**

11      **SEC. 3001. NATIONAL DEPOSITOR PREFERENCE.**

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

15           “(11) DEPOSITOR PREFERENCE.—

16           “(A) IN GENERAL.—Subject to section  
17           5(e)(2)(C), amounts realized from the liquida-  
18           tion or other resolution of any insured deposi-  
19           tory institution by any receiver appointed for  
20           such institution shall be distributed to pay  
21           claims (other than secured claims to the extent  
22           of any such security) in the following order of  
23           priority:

24                   “(i) Administrative expenses of the re-  
25                   ceiver.

1           “(ii) Any deposit liability of the insti-  
2           tution.

3           “(iii) Any other general or senior li-  
4           ability of the institution (which is not a li-  
5           ability described in clause (iv) or (v)).

6           “(iv) Any obligation subordinated to  
7           depositors or general creditors (which is  
8           not an obligation described in clause (v)).

9           “(v) Any obligation to shareholders or  
10          members arising as a result of their status  
11          as shareholders or members (including any  
12          depository institution holding company or  
13          any shareholder or creditor of such com-  
14          pany).

15          “(B) EFFECT ON STATE LAW.—

16               “(i) IN GENERAL.—The provisions of  
17               subparagraph (A) shall not supersede the  
18               law of any State except to the extent such  
19               law is inconsistent with the provisions of  
20               such subparagraph, and then only to the  
21               extent of the inconsistency.

22               “(ii) PROCEDURE FOR DETERMINA-  
23               TION OF INCONSISTENCY.—Upon the Cor-  
24               poration’s own motion or upon the request  
25               of any person with a claim described in

1           subparagraph (A)(i) or any State which is  
2           submitted to the Corporation in accordance  
3           with procedures which the Corporation  
4           shall prescribe, the Corporation shall deter-  
5           mine whether any provision of the law of  
6           any State is inconsistent with any provi-  
7           sion of subparagraph (A) and the extent of  
8           any such inconsistency.

9           “(iii) JUDICIAL REVIEW.—The final  
10          determination of the Corporation under  
11          clause (ii) shall be subject to judicial re-  
12          view under chapter 7 of title 5, United  
13          States Code.

14          “(C) ACCOUNTING REPORT.—Any distribu-  
15          tion by the Corporation in connection with any  
16          claim described in subparagraph (A)(vi) shall be  
17          accompanied by the accounting report required  
18          under paragraph (15)(B).”.

19          (b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

1 (B) by inserting “and” after the semicolon  
2 at the end of subparagraph (A);

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

4 (D) by redesignating subparagraph (C) as  
5 subparagraph (B).

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

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

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

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

18 “(a) DIVIDENDS AND SURPLUS FUNDS OF RESERVE  
19 BANKS.—

20 “(1) STOCKHOLDER DIVIDENDS.—

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

1           “(B) DIVIDEND CUMULATIVE.—The enti-  
2           tlement to dividends under subparagraph shall  
3           be cumulative.

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

9           “(3) PAYMENT TO TREASURY.—During fiscal  
10          years 1997 and 1998, any amount in the surplus  
11          fund of any Federal reserve bank in excess of the  
12          amount equal to 3 percent of the total paid-in cap-  
13          ital and surplus of the member banks of such bank  
14          shall be transferred to the Board for transfer to the  
15          Secretary of the Treasury for deposit in the general  
16          fund of the Treasury.”.

17          (b) ADDITIONAL TRANSFERS FOR FISCAL YEARS  
18          1997 AND 1998.—

19               (1) IN GENERAL.—In addition to the amounts  
20               required to be transferred from the surplus funds of  
21               the Federal reserve banks pursuant to section  
22               7(a)(3) of the Federal Reserve Act, the Federal re-  
23               serve banks shall transfer from such surplus funds  
24               to the Board of Governors of the Federal Reserve  
25               System for transfer to the Secretary of the Treasury

1 for deposit in the general fund of the Treasury, a  
2 total amount of \$106,000,000 in fiscal year 1997  
3 and a total amount of \$107,000,000 in fiscal year  
4 1998.

5 (2) ALLOCATION BY FED.—Of the total amount  
6 required to be paid by the Federal reserve banks  
7 under paragraph (1) for fiscal year 1997 or 1998,  
8 the Board of Governors of the Federal Reserve Sys-  
9 tem shall determine the amount each such bank  
10 shall pay in such fiscal year.

11 (3) REPLENISHMENT OF SURPLUS FUND PRO-  
12 HIBITED.—No Federal reserve bank may replenish  
13 such bank’s surplus fund by the amount of any  
14 transfer by such bank under paragraph (1) during  
15 fiscal years 1997 and 1998.

16 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

17 (1) The penultimate undesignated paragraph of  
18 section 7 of the Federal Reserve Act (12 U.S.C.  
19 290) is amended by striking “The net earnings de-  
20 rived” and inserting “(b) USE OF EARNINGS TRANS-  
21 FERRED TO THE TREASURY.—The net earnings de-  
22 rived”.

23 (2) The last undesignated paragraph of section  
24 7 of the Federal Reserve Act (12 U.S.C. 531) is  
25 amended by striking “Federal reserve banks” and

1 inserting “(c) EXEMPTION FROM TAXATION.—Fed-  
2 eral reserve banks”.

3 **SEC. 3003. USE OF RETURN DATA FOR INCOME VERIFICA-**  
4 **TION UNDER CERTAIN HOUSING ASSISTANCE**  
5 **PROGRAMS.**

6 (a) AMENDMENTS TO HOUSING ACTS.—Section 904  
7 of the Stewart B. McKinney Homeless Assistance Amend-  
8 ments Act of 1988 (42 U.S.C. 3544) is amended as fol-  
9 lows:

10 (1) DEFINITION.—In subsection (a), by adding  
11 at the end the following:

12 “(4) PROGRAM OF THE DEPARTMENT OF HOUS-  
13 ING AND URBAN DEVELOPMENT.—The term ‘pro-  
14 gram of the Department of Housing and Urban De-  
15 velopment’ includes Indian housing programs as-  
16 sisted under title II of the United States Housing  
17 Act of 1937.”.

18 (2) CONSENT FORMS.—In subsection (b)—

19 (A) in paragraph (1), by striking “and” at  
20 the end;

21 (B) in paragraph (2), by striking the pe-  
22 riod at the end and inserting “; and”;

23 (C) by inserting after paragraph (2) the  
24 following new paragraph:

1           “(3) sign a consent form approved by the Sec-  
2           retary authorizing the Secretary to request the Com-  
3           missioner of Social Security and the Secretary of the  
4           Treasury to release information pursuant to section  
5           6103(l)(7)(D)(ix) of the Internal Revenue Code of  
6           1986 with respect to such applicant or participant  
7           for the sole purpose of the Secretary verifying in-  
8           come information pertinent to the applicant’s or par-  
9           ticipant’s eligibility or level of benefits.”; and

10           (D) in the last sentence, by striking  
11           “‘This’” and inserting the following: “‘Except as  
12           provided in this subsection, this’”.

13           (2) APPLICANT, PARTICIPANT, AND PUBLIC  
14           HOUSING AGENCY PROTECTIONS.—In subsection  
15           (c)(2)—

16           (A) in subparagraph (A)—

17           (i) in the matter preceding clause

18           (i)—

19           (I) by inserting after “‘compensa-  
20           tion law’” the following: “‘or pursuant  
21           to section 6103(l)(7)(D)(ix) of the In-  
22           ternal Revenue Code of 1986 from the  
23           Commissioner of Social Security or  
24           the Secretary of the Treasury’”; and

1 (II) by inserting “(in the case of  
2 information obtained pursuant to such  
3 section 303(i))” before “representa-  
4 tives”; and

5 (ii) in clause (ii), by inserting “or  
6 public housing agency” after “owner” each  
7 place it appears; and

8 (B) in subparagraph (B), by inserting  
9 after “wages” each place it appears the follow-  
10 ing: “, other earnings or income,”.

11 (3) PENALTY.—In subsection (c)(3)—

12 (A) in subparagraph (A), by inserting “or  
13 section 6103(l)(7)(D)(ix) of the Internal Reve-  
14 nue Code of 1986” after “Social Security Act”;  
15 and

16 (B) in the first sentence of subparagraph  
17 (B)—

18 (i) by striking clause (i) and inserting  
19 the following: “(i) a negligent or knowing  
20 disclosure of information referred to in this  
21 section, section 303(i) of the Social Secu-  
22 rity Act, or section 6103(l)(7)(D)(ix) of  
23 the Internal Revenue Code of 1986 about  
24 such person by an officer or employee of  
25 any public housing agency or owner (or

1 employee thereof), which disclosure is not  
2 authorized by this section, such section  
3 303(i), such section 6103(l)(7)(D)(ix), or  
4 any regulation implementing this section,  
5 such section 303(i), or such section  
6 6103(l)(7)(D)(ix), or”; and

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

9 (4) CONFORMING AMENDMENT.—The heading  
10 of subsection (c) of section 904 of the Stewart B.  
11 McKinney Homeless Assistance Amendments Act of  
12 1988 is amended by striking “STATE EMPLOY-  
13 MENT”.

14 (5) OPERATING SUBSIDY ADJUSTMENTS.—Sec-  
15 tion 9(a) of the United States Housing Act of 1937  
16 (42 U.S.C. 1437g(c)) is amended by adding at the  
17 end the following:

18 “(4) Adjustments to a public housing agency’s oper-  
19 ating subsidy made by the Secretary under this section  
20 shall reflect actual changes in rental income collections re-  
21 sulting from the application of section 904 of the Stewart  
22 B. McKinney Homeless Assistance Amendments Act of  
23 1988.”.

24 (b) CONFORMING INTERNAL REVENUE CODE  
25 AMENDMENTS.—

1           (1) IN GENERAL.—Subparagraph (D) of section  
2           6103(l)(7) of the Internal Revenue Code of 1986  
3           (26 U.S.C. 6103(l)(7)(D); relating to the disclosure  
4           of return information to Federal, State, and local  
5           agencies administering certain programs) is amend-  
6           ed—

7                   (A) in clause (vii), by striking “, and” at  
8                   the end and inserting a semicolon;

9                   (B) in clause (viii), by striking the period  
10                  at the end and inserting “; and”;

11                  (C) by inserting after clause (viii) the fol-  
12                  lowing new clause:

13                       “(ix) any housing assistance program  
14                       administered by the Department of Hous-  
15                       ing and Urban Development that involves  
16                       initial and periodic review of an applicant’s  
17                       or participant’s income, except that return  
18                       information may be disclosed under this  
19                       paragraph only to the Secretary of Hous-  
20                       ing and Urban Development and only with  
21                       respect to applicants for and participants  
22                       in such programs who have signed consent  
23                       forms under section 904(b)(3) of the Stew-  
24                       art B. McKinney Homeless Assistance  
25                       Amendments Act of 1988.”; and

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

2 “Clause (ix) shall not apply after September  
3 30, 1998.”.

4 (2) AMENDMENT TO THE HEADING.—The head-  
5 ing of paragraph (7) of section 6103(l) of the Inter-  
6 nal Revenue Code of 1986 is amended by inserting  
7 after “1977,” the following: “CERTAIN HOUSING AS-  
8 SISTANCE PROGRAMS,”.

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

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

13 “(E)(i) Notwithstanding subparagraphs (A) through  
14 (D), fees charged for the guarantee of, or commitment to  
15 guarantee, multiclass securities backed by a trust or pool  
16 of securities or notes guaranteed by the Association under  
17 this subsection, and other related fees shall be charged by  
18 the Association in an amount the Association deems ap-  
19 propriate. The Association shall take such action as may  
20 be necessary to reasonably assure that such portion of the  
21 benefit, resulting from the Association’s multiclass securi-  
22 ties program, as the Association determines is appropriate  
23 accrues to mortgagors who execute eligible mortgages  
24 after the date of the enactment of this subparagraph.

1       “(ii) In its annual report, the Association shall pro-  
2 vide a summary of each activity of the Association pertain-  
3 ing to the Association’s multiclass securities program.  
4 Each summary shall contain a description of the activity  
5 and shall include—

6               “(I) information pertaining to the size of the  
7 transactions closed, the number of mortgages in-  
8 volved, the amount of fees charged, those persons or  
9 entities receiving payments for services provided and  
10 the amounts of such payments; and

11               “(II) an estimate of the portion of the benefit  
12 of the multiclass securities program accruing to  
13 mortgagors as well as a description of any action  
14 taken by the Association to ensure such accrual.

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

1       “(iv) The Association shall consult with persons or  
2 entities in such manner as the Association deems appro-  
3 priate to ensure the efficient commencement and operation  
4 of the multiclass securities program.

5       “(v) No State or local law, and no Federal law (ex-  
6 cept Federal law enacted expressly in limitation of this  
7 clause after the effective date of this subparagraph) shall  
8 preclude or limit the exercise by the Association of its  
9 power to contract with persons or entities, and its rights  
10 to enforce such contracts, for the purpose of ensuring the  
11 efficient commencement and continued operation of the  
12 multiclass securities program.

13       “(vi) Prior to the commencement of the multiclass  
14 securities program, the Association shall provide to the  
15 Committee on Banking, Housing, and Urban Affairs of  
16 the Senate and the Committee on Banking, Finance and  
17 Urban Affairs of the House of Representatives a report  
18 describing the Association’s design of the multiclass secu-  
19 rities program, including program elements that ensure  
20 the minimization of risks arising from the operation of the  
21 multiclass securities program, such as—

22               “(I) any industry proven safeguards, including  
23 capital standards for sponsors and provisions for in-  
24 demnification from private parties for events that

1 may result in the Association's liability under its  
2 guaranty or commitment to guaranty; and

3 "(II) the sufficiency of the Association's staff  
4 resources to administer the multiclass securities pro-  
5 gram."

6 **SEC. 3005. MUTUAL MORTGAGE INSURANCE FUND PRE-**  
7 **MIUMS.**

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

1     **TITLE IV—COMMUNICATIONS**  
2             **AND TRANSPORTATION**  
3     **Subtitle A—Spectrum Allocation**  
4             **and Auction**

5     **SEC. 401. SHORT TITLE.**

6             This subtitle may be cited as the “Emerging Tele-  
7     communications Technologies Act of 1993”.

8     **SEC. 402. FINDINGS.**

9             The Congress finds that—

10            (1) the Federal Government currently reserves  
11            for its own use, or has priority of access to, approxi-  
12            mately 40 percent of the electromagnetic spectrum  
13            that is assigned for use pursuant to the Communica-  
14            tions Act of 1934;

15            (2) many of such frequencies are underutilized  
16            by Federal Government licensees;

17            (3) the public interest requires that many of  
18            such frequencies be utilized more efficiently by Fed-  
19            eral Government and non-Federal licensees;

20            (4) additional frequencies are assigned for serv-  
21            ices that could be obtained more efficiently from  
22            commercial providers or other vendors;

23            (5) scarcity of assignable frequencies for licens-  
24            ing by the Commission can and will—

1 (A) impede the development and commer-  
2 cialization of new telecommunications products  
3 and services;

4 (B) limit the capacity and efficiency of  
5 telecommunications systems in the United  
6 States;

7 (C) prevent some State and local police,  
8 fire, and emergency services from obtaining ur-  
9 gently needed radio channels; and

10 (D) adversely affect the productive capac-  
11 ity and international competitiveness of the  
12 United States economy;

13 (6) a reassignment of these frequencies can  
14 produce significant economic returns;

15 (7) a reassignment of Federal Government fre-  
16 quencies can be accomplished without adverse im-  
17 pact on amateur radio licenses that currently share  
18 allocations with Federal Government stations;

19 (8) current spectrum assignment procedures—  
20 comparative hearings and lotteries—can be expen-  
21 sive and time consuming, can strain the limited re-  
22 sources of the Federal Communications Commission,  
23 and can result in an inefficient distribution of spec-  
24 trum and an unjustified windfall to speculators;

1           (9) competitive bidding could reduce the cost in  
2           time and money—and increase the efficiency—of the  
3           spectrum assignment process for certain radio serv-  
4           ices, discourage speculative applications, encourage  
5           the efficient use of spectrum by licensees, and fairly  
6           compensate United States taxpayers for use of a  
7           scarce public natural resource;

8           (10) competitive bidding should be structured  
9           to—

10                   (A) facilitate introduction of new spec-  
11                   trum-based technologies and services and entry  
12                   of new companies into the telecommunications  
13                   market;

14                   (B) recognize the legitimate needs of rural  
15                   telephone companies in providing spectrum-  
16                   based, common carrier services in rural markets  
17                   in which they provide telephone exchange serv-  
18                   ice by wire;

19                   (C) give appropriate consideration to small  
20                   businesses and minority-owned businesses that  
21                   want to participate in the competitive bidding  
22                   process;

23                   (D) recognize the need to make reasonably  
24                   priced mobile communications services available  
25                   to businesses in rural areas;

1 (E) recognize the need to ensure that ade-  
2 quate spectrum continues to be available for  
3 public safety services; and

4 (F) otherwise further the public interest;

5 (11) competitive bidding should apply only to  
6 the granting of new spectrum licenses and should  
7 not—

8 (A) disrupt the operations of existing spec-  
9 trum licensees;

10 (B) alter existing spectrum allocation pro-  
11 cedures;

12 (C) apply to certain services governed by  
13 public interest regulations;

14 (D) diminish the existing authority of the  
15 Federal Communications Commission to regu-  
16 late or reclaim spectrum licenses;

17 (E) prevent or discourage the allocation of  
18 spectrum to meet the current or future needs of  
19 public safety services; or

20 (F) grant any right to a spectrum licensee  
21 different from the rights awarded to licensees  
22 who obtain their license through assignment  
23 methods other than competitive bidding;

24 (12) in appropriating revenues received from  
25 competitive bidding, priority should be given to—

1 (A) funding spectrum management, plan-  
2 ning, monitoring, and enforcement and other  
3 activities of the Federal Communications Com-  
4 mission, the National Telecommunications and  
5 Information Administration, and other Federal  
6 agencies aimed at increasing the efficiency and  
7 effectiveness of spectrum use, facilitating the  
8 introduction of new spectrum-based tech-  
9 nologies and services, and enhancing the inter-  
10 national competitiveness of the United States  
11 and the ability of American companies to enter  
12 new markets; and

13 (B) extending the reach of public radio  
14 and television to underserved areas of the Unit-  
15 ed States and underserved groups of Americans  
16 and enhancing the ability of public tele-  
17 communications to deliver needed original, high-  
18 quality public service programming; and

19 (13) because commercial mobile services require  
20 a Federal license and the Federal Government is at-  
21 tempting to promote competition for such services,  
22 and because providers of such services do not exer-  
23 cise market power vis-a-vis telephone exchange serv-  
24 ice carriers and State regulation can be a barrier to  
25 the development of competition in this market, uni-

1 form national policy is necessary and in the public  
2 interest.

3 **SEC. 403. NATIONAL SPECTRUM PLANNING.**

4 (a) PLANNING ACTIVITIES.—The Assistant Secretary  
5 of Commerce for Communications and Information and  
6 the Chairman of the Commission shall meet, at least bian-  
7 nually, to conduct joint spectrum planning with respect  
8 to the following issues:

9 (1) the future spectrum requirements for public  
10 and private uses, including State and local govern-  
11 ment public safety agencies;

12 (2) the spectrum allocation actions necessary to  
13 accommodate those uses; and

14 (3) actions necessary to promote the efficient  
15 use of the spectrum, including spectrum manage-  
16 ment techniques to promote increased shared use of  
17 the spectrum that does not cause harmful inter-  
18 ference, as a means of increasing commercial access.

19 (b) REPORT ON PLANNING ACTIVITIES.—Not later  
20 than 24 months after the date of enactment of this Act,  
21 the Assistant Secretary of Commerce for Communications  
22 and Information and the Chairman of the Commission  
23 shall submit a joint report to the Committee on Energy  
24 and Commerce of the House of Representatives and the  
25 Committee on Commerce, Science, and Transportation of

1 the Senate on the joint spectrum planning activities con-  
2 ducted under subsection (a) and recommendations for ac-  
3 tion developed pursuant to such activities. The report shall  
4 contain recommendations for the reform of the process of  
5 allocating spectrum between Federal uses and non-Federal  
6 uses.

7 (c) PROCEDURES TO ENSURE OPPORTUNITY FOR  
8 MINORITY-OWNED BUSINESSES AND SMALL BUSI-  
9 NESSES.—The Commission shall develop procedures to en-  
10 sure that minority-owned businesses and small businesses  
11 are given the opportunity to provide spectrum-based serv-  
12 ices. In developing such procedures, the Commission shall  
13 consider the use of tax certificates and bidding pref-  
14 erences.

15 (d) STUDY ON SPECTRUM NEEDS OF PUBLIC SAFE-  
16 TY AGENCIES.—The Commission shall complete and sub-  
17 mit to Congress, not later than 18 months after the date  
18 of enactment of this Act, a study of current and future  
19 spectrum needs of State and local government public safe-  
20 ty agencies through the year 2010, and a specific plan to  
21 satisfy those spectrum needs.

1 **SEC. 404. RECOMMENDATIONS FOR REALLOCATION OF**  
2 **CERTAIN FREQUENCIES.**

3 (a) IDENTIFICATION REQUIRED.—For purposes of  
4 reallocation, the Secretary shall identify frequencies  
5 that—

6 (1) are allocated on a primary basis for Federal  
7 Government use;

8 (2) are not required for the present or identifi-  
9 able future needs of the Federal Government;

10 (3) can feasibly be made available, as of the  
11 date of such identification or at any time during the  
12 next 15 years, for use under the Act (other than for  
13 Federal Government stations under section 305 of  
14 the Act) without resulting in costs to the Federal  
15 Government, or loss of services or benefits to the  
16 public, that are excessive in relation to the benefits  
17 to the public that may be provided by non-Federal  
18 licensees; and

19 (4) are most likely to have the greatest poten-  
20 tial for productive uses and public benefits under the  
21 Act if allocated for commercial uses.

22 (b) MINIMUM AMOUNT OF SPECTRUM REC-  
23 OMMENDED.—

24 (1) OVERALL RECOMMENDATION.—In accord-  
25 ance with the provisions of this section, the Sec-  
26 retary shall recommend for reallocation, for use

1 other than by Federal Government stations under  
2 section 305 of the Act (47 U.S.C. 305), at least 200  
3 megahertz of frequencies identified under subsection  
4 (a) that are located below 5 gigahertz. At least one-  
5 half of such frequencies shall be located below 3  
6 gigahertz.

7 (2) MIXED USES PERMITTED TO BE COUNT-  
8 ED.—Among the frequencies recommended under  
9 this section for reallocation, the Secretary may in-  
10 clude frequencies and frequency bands that are to be  
11 partially retained for use by Federal Government  
12 stations but that are also recommended to be reallo-  
13 cated under the Act for use by non-Federal stations,  
14 except that—

15 (A) such mixed-use frequencies and fre-  
16 quency bands may not count toward more than  
17 one-half of the 200 megahertz minimum re-  
18 quired by paragraph (1);

19 (B) such mixed-use frequencies and fre-  
20 quency bands may not be so counted unless the  
21 assignments of the frequencies to Federal Gov-  
22 ernment stations under section 305 of the Act  
23 (47 U.S.C. 305) are limited by geographic area,  
24 by time, or by other means so as to guarantee  
25 that the potential use to be made by such Fed-

1           eral Government stations is substantially less  
2           (as measured by geographic area, time, or oth-  
3           erwise) than the potential use to be made by  
4           non-Federal stations; and

5           (C) the operational sharing permitted  
6           under this paragraph shall be subject to coordi-  
7           nation procedures that the Commission and the  
8           Secretary shall jointly establish and implement  
9           to ensure against harmful interference.

10       (c) CONSIDERATION OF CRITERIA FOR IDENTIFICA-  
11       TION.—

12           (1) NEEDS OF THE FEDERAL GOVERNMENT.—

13       In determining whether a frequency meets the cri-  
14       teria specified in subsection (a)(2), the Secretary  
15       shall—

16           (A) consider whether the frequency is used  
17           to provide a communications service that is or  
18           could be made available from a commercial car-  
19           rier or other vendor;

20           (B) seek to promote—

21               (i) the maximum practicable reliance  
22               on commercially available substitutes;

23               (ii) the sharing of frequencies (as per-  
24               mitted under subsection (b)(2));

1 (iii) the development and use of new  
2 communications technologies; and

3 (iv) the use of nonradiating commu-  
4 nications systems where practicable; and

5 (C) seek to avoid—

6 (i) serious degradation of Federal  
7 Government services and operations;

8 (ii) excessive costs to the Federal Gov-  
9 ernment and users of Federal Government  
10 services; and

11 (iii) excessive disruption of existing  
12 use of Federal Government frequencies by  
13 amateur radio licensees.

14 (2) FEASIBILITY OF USE.—In determining  
15 whether a frequency meets the criteria specified in  
16 subsection (a)(3), the Secretary shall—

17 (A) assume that the frequency will be as-  
18 signed by the Commission under section 303 of  
19 the Act (47 U.S.C. 303) within 15 years;

20 (B) assume reasonable rates of scientific  
21 progress and growth of demand for tele-  
22 communications services;

23 (C) seek to include frequencies which can  
24 be used to stimulate the development of new  
25 technologies; and

1 (D) consider the immediate and recurring  
2 costs to reestablish services displaced by the  
3 reallocation of spectrum.

4 (3) COMMERCIAL USE.—In determining wheth-  
5 er a frequency meets the criteria specified in sub-  
6 section (a)(4), the Secretary shall consider—

7 (A) the extent to which equipment is avail-  
8 able that is capable of utilizing such frequency;

9 (B) the proximity of frequencies that are  
10 already assigned for commercial or other non-  
11 Federal use;

12 (C) the extent to which, in general, com-  
13 mercial users could share the frequency with  
14 amateur radio licensees; and

15 (D) the activities of foreign governments in  
16 making frequencies available for experimen-  
17 tation or commercial assignments in order to  
18 support their domestic manufacturers of equip-  
19 ment.

20 (4) OTHER USES.—

21 (A) APPLICABILITY OF CRITERIA.—The  
22 criteria specified by subsection (a) shall be  
23 deemed not to be met for any purpose under  
24 this subtitle with regard to any frequency as-  
25 signment to, or any frequency assignment used

1 by, a Federal power agency for the purpose of  
2 withdrawing that assignment.

3 (B) MIXED USE ELIGIBILITY.—The fre-  
4 quencies assigned to any Federal power agency  
5 may only be eligible for mixed use under sub-  
6 section (b)(2) in geographically separate areas,  
7 but in those cases where a frequency is to be  
8 shared by an affected Federal power agency  
9 and a non-Federal user, such use by the non-  
10 Federal user shall not cause harmful inter-  
11 ference to the affected Federal power agency or  
12 adversely affect the reliability of its power sys-  
13 tem.

14 (C) DEFINITION.—As used in this para-  
15 graph, the term “Federal power agency” means  
16 the Tennessee Valley Authority, the Bonneville  
17 Power Administration, the Western Area Power  
18 Administration, or the Southwestern Power Ad-  
19 ministration.

20 (d) PROCEDURE FOR IDENTIFICATION OF  
21 REALLOCABLE BANDS OF FREQUENCIES.—

22 (1) REPORT IDENTIFYING 30 MEGAHERTZ FOR  
23 IMMEDIATE REALLOCATION.—Within 6 months after  
24 the date of enactment of this Act, the Secretary  
25 shall prepare and submit to the President and the

1 Congress a report that recommends for immediate  
2 reallocation no less than 30 megahertz of fre-  
3 quencies identified under subsection (a). None of the  
4 frequencies covered by such report may be allocated  
5 for mixed use as described in subsection (b)(2). Not  
6 less than one-half of such frequencies shall be  
7 located below 3 gigahertz.

8 (2) PRELIMINARY REPORT ON OTHER  
9 REALLOCABLE FREQUENCIES.—Within 6 months  
10 after the date of enactment of this Act, the Sec-  
11 retary shall prepare, make publicly available, and  
12 submit to the President and the Congress a prelimi-  
13 nary report that recommends for reallocation at  
14 least 170 megahertz of frequencies identified under  
15 subsection (a), other than those recommended for  
16 immediate reallocation under paragraph (1).

17 (3) PUBLIC COMMENT; CHANGES TO REPORT.—  
18 The Secretary shall receive public comment on the  
19 preliminary report required by paragraph (2) and  
20 shall, based upon the comments, make such changes  
21 to the report as are warranted to meet the objectives  
22 of this section.

23 (4) DIRECT DISCUSSIONS.—The Secretary shall  
24 encourage and provide opportunity for direct discus-  
25 sions among commercial representatives and Federal

1 Government users of the spectrum to aid the Sec-  
2 retary in determining which frequencies to rec-  
3 ommend for reallocation. The Secretary shall provide  
4 notice to the public of any such discussions, includ-  
5 ing the name or names of any businesses or other  
6 persons represented in such discussions, and shall  
7 provide the public with an opportunity to comment  
8 on the results of any such negotiations prior to the  
9 submission of the final report required by paragraph  
10 (5).

11 (5) FINAL REPORT ON OTHER REALLOCABLE  
12 FREQUENCIES.—Within 18 months after the date of  
13 enactment of this Act, the Secretary shall prepare  
14 and submit to the President and the Congress a  
15 final report that recommends the reallocation of at  
16 least 170 megahertz of frequencies as described in  
17 paragraph (2). Not less than one-half of such fre-  
18 quencies shall be located below 3 gigahertz.

19 (6) LIMITATION ON REALLOCATION.—None of  
20 the frequencies recommended for reallocation in the  
21 reports required by this subsection shall have been  
22 recommended, prior to the date of enactment of this  
23 Act, for reallocation to non-Federal use by inter-  
24 national agreement.

1 (e) TIMETABLE FOR REALLOCATION AND LIMITA-  
2 TION.—The Secretary shall, as part of the reports re-  
3 quired by paragraphs (1) and (2) of subsection (d), in-  
4 clude a timetable that recommends dates by which the  
5 President shall withdraw or limit assignments of the fre-  
6 quencies specified in the reports. In setting the rec-  
7 ommended effectived dates, the Secretary shall—

8 (1) consider the need to reallocate frequencies  
9 as early as possible, taking into account the require-  
10 ments of section 406;

11 (2) consider the useful remaining life of equip-  
12 ment that has been purchased or contracted for pur-  
13 chase to operate on identified frequencies;

14 (3) consider the need to coordinate frequency  
15 use with other nations; and

16 (4) take into account the relationship between  
17 the costs to the Federal Government of changing to  
18 different frequencies and the benefits that may be  
19 obtained from commercial and other non-Federal  
20 uses of the reassigned frequencies.

21 **SEC. 405. WITHDRAWAL OR LIMITATION OF ASSIGNMENT**  
22 **TO FEDERAL GOVERNMENT STATIONS.**

23 (a) IN GENERAL.—The President shall—

24 (1) within 12 months after receipt of the report  
25 required by section 404(d)(1), withdraw the assign-

1 ment to a Federal Government station of any fre-  
2 quency in the frequencies recommended by that re-  
3 port for immediate reallocation;

4 (2) by the effective date recommended by the  
5 Secretary under section 404(e) (except as provided  
6 in subsection (b)(4) of this section), withdraw or  
7 limit the assignment to a Federal Government sta-  
8 tion of any frequency which the report required by  
9 section 404(d)(3) recommends be reallocated or  
10 made available for mixed use on such recommended  
11 effective date;

12 (3) assign or reassign other frequencies to Fed-  
13 eral Government stations as necessary to adjust to  
14 such withdrawal or limitation of assignments; and

15 (4) transmit a notice and description to the  
16 Commission and each House of Congress of the ac-  
17 tions taken under this subsection.

18 (b) EXCEPTIONS.—

19 (1) AUTHORITY TO SUBSTITUTE.—If the Presi-  
20 dent determines that a circumstance described in  
21 paragraph (2) exists, the President—

22 (A) may substitute an alternative fre-  
23 quency for the frequency that is subject to such  
24 determination and withdraw (or limit) the as-

1           signment of that alternative frequency in the  
2           manner required by subsection (a); and

3                   (B) shall submit a statement of the rea-  
4                   sons for taking the action described in subpara-  
5                   graph (A) to the Committee on Energy and  
6                   Commerce of the House of Representatives and  
7                   the Committee on Commerce, Science, and  
8                   Transportation of the Senate.

9           (2) GROUNDS FOR SUBSTITUTION.—Each of  
10          the following subparagraphs describes a cir-  
11          cumstance referred to in paragraph (1):

12                   (A) The reassignment would seriously jeop-  
13                   ardize the national defense interests of the  
14                   United States.

15                   (B) The frequency proposed for reassign-  
16                   ment is uniquely suited to meeting important  
17                   governmental needs.

18                   (C) The reassignment would seriously jeop-  
19                   ardize public health or safety.

20                   (D) The reassignment will result in costs  
21                   to the Federal Government that are excessive in  
22                   relation to the benefits that may be obtained  
23                   from commercial or other non-Federal uses of  
24                   the reassigned frequency.

1           (E) The reassignment will disrupt the ex-  
2           isting use of a Federal Government band of fre-  
3           quencies by amateur radio licensees.

4           (3) CRITERIA FOR SUBSTITUTED FRE-  
5           QUENCIES.—For purposes of paragraph (1), a fre-  
6           quency may not be substituted for a frequency iden-  
7           tified and recommended under section 404 for  
8           reallocation, unless the substituted frequency also  
9           meets each of the criteria specified by section  
10          404(a).

11          (4) DELAYS IN IMPLEMENTATION.—If the  
12          President determines that any action cannot be com-  
13          pleted by the effective date recommended by the Sec-  
14          retary pursuant to section 404(e), or that such an  
15          action by such date would result in a frequency  
16          being unused as a consequence of the Commission's  
17          plan under section 404(b), the President may—

18                 (A) withdraw or limit the assignment to  
19                 Federal Government stations on a later date  
20                 that is consistent with such plan, except that  
21                 the President shall notify each Committee spec-  
22                 ified in paragraph (1)(B) and the Commission  
23                 of the reason that withdrawal or limitation at  
24                 a later date is required; or

1 (B) substitute alternative frequencies pur-  
2 suant to this subsection.

3 (c) COSTS OF WITHDRAWING FREQUENCIES AS-  
4 SIGNED TO THE FEDERAL GOVERNMENT.—

5 (1) REIMBURSEMENT AUTHORIZED.—Any Fed-  
6 eral agency, or non-Federal entity operating on be-  
7 half of a Federal agency, whose operation is dis-  
8 placed from a frequency pursuant to this section  
9 may be reimbursed, from revenues received pursuant  
10 to section 408, not more than the incremental costs  
11 such agency or entity incurs (in such amounts as are  
12 provided in advance in an appropriations Act) that  
13 are directly attributable to the displacement from  
14 the frequency. The estimates of these costs shall be  
15 prepared by the affected agency, in consultation with  
16 the Department of Commerce.

17 (2) AUTHORIZATION OF APPROPRIATIONS.—  
18 There are authorized to be appropriated to the af-  
19 fected Federal agencies such sums as may be nec-  
20 essary to carry out the purposes of this subsection.

21 (d) EXISTING AUTHORITY RETAINED.—

22 (1) ADDITIONAL REALLOCATION.—Nothing in  
23 this subtitle prevents or limits additional reallocation  
24 of spectrum from the Federal Government to the  
25 commercial or other sectors.

1           (2) IMPLEMENTATION OF NEW TECHNOLOGIES  
2           AND SERVICES.—Notwithstanding any other provi-  
3           sion of this subtitle—

4                   (A) the Secretary may at any time allow  
5                   frequencies allocated on a primary basis for  
6                   Federal Government use to be used by non-  
7                   Federal licensees on a mixed-use basis for the  
8                   purpose of facilitating the prompt implementa-  
9                   tion of new technologies or services; and

10                   (B) the Commission shall expedite and give  
11                   priority to the allocation of any frequencies  
12                   identified pursuant to subparagraph (A), and  
13                   any associated licensing.

14   **SEC. 406. ALLOCATION AND ASSIGNMENT OF FREQUENCIES**

15                   **BY THE COMMISSION.**

16           (a) ALLOCATION AND ASSIGNMENT OF IMMEDIATELY  
17           AVAILABLE FREQUENCIES.—With respect to the fre-  
18           quencies made available for immediate reallocation pursu-  
19           ant to section 405(a)(1), the Commission, not later than  
20           18 months after the date of enactment of this Act, shall  
21           issue rules to allocate such frequencies and shall propose  
22           rules to assign such frequencies.

23           (b) ALLOCATION AND ASSIGNMENT OF REMAINING  
24           AVAILABLE FREQUENCIES.—With respect to the fre-  
25           quencies made available for reallocation pursuant to sec-

1 tion 405(a)(2), the Commission shall, not later than 1  
2 year after receipt of the final report identified in section  
3 404(d)(4), prepare, in consultation with the Assistant Sec-  
4 retary of Commerce for Communications and Information,  
5 submit to the President and the Congress, and implement,  
6 a plan for the allocation and assignment under the Act  
7 of such frequencies. Such plan shall—

8 (1) not propose the immediate allocation and  
9 assignment of all such frequencies but, taking into  
10 account the timetable recommended by the Secretary  
11 pursuant to section 404(e), shall propose—

12 (A) gradually to allocate and assign the  
13 frequencies remaining, after making the res-  
14 ervation required by subparagraph (B), over the  
15 course of 10 years beginning on the date of  
16 submission of such plan; and

17 (B) to reserve a significant portion of such  
18 frequencies for distribution beginning after the  
19 end of such 10-year period;

20 (2) contain appropriate provisions to ensure the  
21 availability of frequencies for (A) new technologies  
22 and services in accordance with the policies of sec-  
23 tion 7 of the Act (47 U.S.C. 157) and (B) the safety  
24 of life and property in accordance with the policies  
25 of section 1 of the Act (47 U.S.C. 151);

1           (3) address (A) the feasibility of reallocating  
2 portions of the spectrum from current commercial  
3 and other non-Federal uses to provide for more effi-  
4 cient use of the spectrum, and (B) innovation and  
5 marketplace developments that may affect the rel-  
6 ative efficiencies of different spectrum allocations;

7           (4) not prevent the Commission from allocating  
8 frequencies, and assigning licenses to use fre-  
9 quencies, not included in the plan; and

10           (5) not preclude the Commission from making  
11 changes to the plan in future proceedings.

12           (c) AMENDMENT TO THE ACT.—Section 303 of the  
13 Act (47 U.S.C. 303) is amended by adding at the end the  
14 following new subsection:

15           “(v) Have authority to assign licenses to use the fre-  
16 quencies reallocated from United States Government use  
17 to non-United States Government use pursuant to the  
18 Emerging Telecommunications Technologies Act of 1993;  
19 except that any such assignment shall be made expressly  
20 subject to the right of the President to reclaim such fre-  
21 quencies under section 7 of such Act.”.

22 **SEC. 407. AUTHORITY TO RECLAIM REASSIGNED FRE-**  
23 **QUENCIES.**

24           (a) AUTHORITY OF PRESIDENT.—Subsequent to the  
25 withdrawal of assignment to Federal Government stations

1 pursuant to section 405, the President may reclaim reas-  
2 signed frequencies for reassignment to Federal Govern-  
3 ment stations in accordance with this section.

4 (b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

5 (1) UNALLOCATED FREQUENCIES.—If the fre-  
6 quencies to be reclaimed have not been allocated or  
7 assigned by the Commission pursuant to the Act,  
8 the President shall follow the procedures for substi-  
9 tution of frequencies established by section 405(b) of  
10 this subtitle.

11 (2) ALLOCATED FREQUENCIES.—If the fre-  
12 quencies to be reclaimed have been allocated or as-  
13 signed by the Commission, the President shall follow  
14 the procedures for substitution of frequencies estab-  
15 lished by section 405(b) of this subtitle, except that  
16 the notification required by section 405(b)(1)(B)  
17 shall include—

18 (A) a timetable to accommodate an orderly  
19 transition for displaced licensees to obtain new  
20 frequencies and equipment necessary for its uti-  
21 lization; and

22 (B) an estimate of the cost of displacing  
23 spectrum uses licensed by the Commission.

24 (c) COSTS OF RECLAIMING FREQUENCIES; APPRO-  
25 PRIATIONS AUTHORIZED.—The Federal Government shall

1 bear all costs of reclaiming frequencies pursuant to this  
2 section, including the cost of equipment which is rendered  
3 unusable, the cost of relocating operations to a different  
4 frequency, and any other costs that are directly attrib-  
5 utable to the reclaiming of the frequency pursuant to this  
6 section. There are authorized to be appropriated such  
7 sums as may be necessary to carry out the purposes of  
8 this section.

9 (d) EFFECTIVE DATE OF RECLAIMED FRE-  
10 QUENCIES.—The Commission shall not withdraw licenses  
11 for any reclaimed frequencies until the end of the fiscal  
12 year following the fiscal year in which the President’s noti-  
13 fication is received.

14 (e) EFFECT ON OTHER LAW.—Nothing in this sec-  
15 tion shall be construed to limit or otherwise affect the au-  
16 thority of the President under section 706 of the Act (47  
17 U.S.C. 606).

18 **SEC. 408. COMPETITIVE BIDDING.**

19 (a) COMPETITIVE BIDDING.—

20 (1) IN GENERAL.—

21 (A) FIVE-YEAR AUTHORIZATION.—The  
22 Commission shall, during fiscal years 1994  
23 through 1998, use the competitive bidding proc-  
24 ess authorized under the amendment made by  
25 subsection (b) to grant all radio spectrum li-

1 censes for which two or more mutually exclusive  
2 applications have been filed, including the 200  
3 megahertz of spectrum made available to the  
4 Commission under this subtitle, and including  
5 the licenses issued for a personal communica-  
6 tions service established pursuant to the pro-  
7 ceeding entitled “Amendment to the Commis-  
8 sion’s Rules to Establish New Personal Com-  
9 munications Services”, or any successor pro-  
10 ceeding, except for those licenses identified in  
11 subparagraphs (A) through (E) of section  
12 309(j)(4) of the Act and those licenses that the  
13 Commission determines should in the public in-  
14 terest be issued by comparative hearing under  
15 section 309(a) through (f) of the Act. To the  
16 extent possible, and consistent with the pur-  
17 poses of this subtitle, the Commission shall seek  
18 to ensure that revenues received pursuant to  
19 the competitive bidding process are received be-  
20 fore the end of fiscal year 1998.

21 (B) EXPIRATION OF REQUIREMENTS.—

22 The requirements of subparagraph (A) shall ex-  
23 pire either—

24 (i) upon a determination by the Sec-  
25 retary of the Treasury that competitive

1 bidding has resulted in or is reasonably ex-  
2 pected to result in the receipt of  
3 \$7,200,000,000 by the end of fiscal year  
4 1998, or

5 (ii) at the end of fiscal year 1998,  
6 whichever is earlier.

7 (C) REPORT TO PRESIDENT AND CON-  
8 GRESS.—The Commission shall prepare, in con-  
9 sultation with the Assistant Secretary of Com-  
10 merce for Communications and Information,  
11 and submit to the President and the Congress,  
12 not later than March 31, 1997, and March 31,  
13 1999, reports on the use of competitive bidding  
14 under subparagraph (A). Such reports shall ex-  
15 amine, in addition to any other matters deemed  
16 appropriate by the Commission, whether and to  
17 what extent—

18 (i) competitive bidding significantly  
19 improved the efficiency and effectiveness of  
20 the process for granting radio spectrum  
21 licenses;

22 (ii) competitive bidding facilitated the  
23 introduction of new spectrum-based tech-  
24 nologies and the entry of new companies  
25 into the telecommunications market;

1 (iii) the needs of rural spectrum users  
2 were adequately addressed in the competi-  
3 tive bidding process;

4 (iv) small businesses and minority-  
5 owned businesses were able to participate  
6 successfully in the competitive bidding  
7 process; and

8 (v) statutory changes are needed to  
9 improve the competitive bidding process.

10 (2) RETENTION OF REVENUES.—Notwithstand-  
11 ing paragraph (6) of section 309(j) of the Act, as  
12 added by this subtitle, the salaries and expenses ac-  
13 count of the Commission shall retain as an offsetting  
14 collection such sums as may be necessary from the  
15 receipts received pursuant to such section for the  
16 costs of developing and implementing the program  
17 required by subsection (a)(1)(A). Such offsetting col-  
18 lections shall be available for obligation subject to  
19 the terms and conditions of the receiving appropria-  
20 tions account, and shall be deposited in such ac-  
21 counts on a quarterly basis. Any funds appropriated  
22 to the Commission for fiscal years 1994 through  
23 1998 for the purpose of assigning licenses using ran-  
24 dom selection under section 309(i) of the Act shall

1 be used by the Commission to implement section  
2 309(j) of the Act.

3 (b) COMPETITIVE BIDDING AUTHORIZATION.—Sec-  
4 tion 309 of the Act (47 U.S.C. 309) is amended by adding  
5 at the end the following new subsection:

6 “(j)(1) Subject to the exemptions and conditions set  
7 forth in the other provisions of this subsection, if there  
8 are two or more mutually exclusive applications for any  
9 construction permit or initial license which will involve any  
10 use of the electromagnetic spectrum, the Commission shall  
11 have authority to use competitive bidding in the granting  
12 of such construction permit or initial license.

13 “(2)(A) The Commission shall, within 6 months after  
14 the date of enactment of the Emerging Telecommuni-  
15 cations Technologies Act of 1993 and following public no-  
16 tice and comment proceedings, issue rules establishing  
17 competitive bidding procedures under this subsection.  
18 Such rules shall include safeguards to protect the public  
19 interest in the use of the spectrum and shall ensure the  
20 opportunity for successful participation by small busi-  
21 nesses and minority-owned businesses.

22 “(B)(i) In the rules issued pursuant to subparagraph  
23 (A), the Commission shall require potential bidders to file  
24 a first-stage application indicating an intent to participate  
25 in the competitive bidding process and containing such

1 other information as the Commission finds necessary.  
2 After conducting the bidding, the Commission shall re-  
3 quire the winning bidder to file a second-stage application.  
4 After determining that such application is acceptable for  
5 filing and that the winning bidder is qualified as described  
6 in clause (ii), the Commission shall grant the permit or  
7 license to the winning bidder.

8       “(ii) No permit or license shall be granted to a win-  
9 ning bidder pursuant to clause (i) unless the Commission  
10 determines that such winning bidder is qualified pursuant  
11 to section 308(b) and subsection (a) of this section, on  
12 the basis of the information contained in the first-stage  
13 and second-stage applications submitted pursuant to  
14 clause (i).

15       “(iii) Each participant in the competitive bidding  
16 process shall be subject to the schedule of charges con-  
17 tained in section 8.

18       “(C) In the rules issued pursuant to subparagraph  
19 (A), the Commission, in addition to other actions it finds  
20 necessary to implement competitive bidding fairly and  
21 effectively, shall—

22               “(i) establish the method of bidding (including  
23 but not limited to sealed bids) and the basis for pay-  
24 ment (such as installment or lump sum payments,  
25 royalties on future income, a combination thereof, or

1 other reasonable forms of payment specified by the  
2 Commission); and

3 “(ii) establish other appropriate conditions on  
4 such permits and licenses that serve the public  
5 interest.

6 “(3)(A)(i) If the Commission decides to use competi-  
7 tive bidding to grant two or more national, regional, or  
8 local licenses per market in a terrestrial service that will  
9 compete with telephone exchange service provided by a  
10 qualified common carrier, the Commission shall designate  
11 one such license per market as a rural program license.

12 “(ii) The Commission shall define the geographic  
13 boundaries of the rural program license to correspond to  
14 the geographic area of the telephone exchange service by  
15 which the qualified common carrier became eligible for the  
16 rural program license under subparagraph (E)(ii).

17 “(B)(i) Except as provided in subparagraph (D), the  
18 Commission shall either grant a rural program license to  
19 the qualified common carrier providing telephone exchange  
20 service in the area covered by such license, or grant a  
21 license to a consortium of such qualified carriers.

22 “(ii) No qualified common carrier that receives a  
23 rural program license shall be eligible to—

24 “(I) receive any other license to provide the  
25 same service in such area; or

1           “(II) own any equity interest in, become a cred-  
2           itor of, or otherwise become affiliated with any en-  
3           tity that holds a license to provide the same service  
4           in such area.

5           “(iii) Any qualified common carrier that receives a  
6           rural program license shall (I) provide to all other licens-  
7           ees providing the same service in such area the same qual-  
8           ity of access to its wire network that it provides itself,  
9           and (II) shall interconnect its wireless service with the  
10          wireless service provided by another licensee providing the  
11          same service on the same frequency in a different geo-  
12          graphic area. Such other licensee shall provide an equiva-  
13          lent interconnection with the wireless service of such rural  
14          program licensee.

15          “(iv) The Commission may establish other rules or  
16          conditions for the award of a rural program license, con-  
17          sistent with the intent of this paragraph.

18          “(C)(i) Upon the grant of a rural program license  
19          to a qualified common carrier, such carrier shall pay a  
20          fee (in lump sum or installment payments, in royalties on  
21          future income, in a combination thereof, or on any other  
22          reasonable basis specified by the Commission) equal to the  
23          value of such license. The value of such license shall be  
24          the average of the amounts paid by persons granted li-  
25          censes through competitive bidding to provide the same

1 service in such area, except that the Commission shall de-  
2 termine the value of such license by any reasonable means  
3 when the geographic area served by the rural program li-  
4 cense is not congruent with the geographic area served by  
5 the other license or licenses. The Commission shall ensure  
6 that the total amount paid by qualified common carriers  
7 for all the licenses issued to them under the rural program  
8 shall equal the total value, as determined under clause (ii),  
9 of such licenses.

10       “(ii) The Commission shall determine the total value  
11 of the licenses issued under the rural program to qualified  
12 common carriers by first adding the amounts paid for the  
13 licenses not subject to the rural program, and dividing  
14 that sum by the number of licenses per market that are  
15 not subject to the rural program. The Commission shall  
16 then subtract from the amount found in the previous cal-  
17 culation the total amount paid for the licenses issued for  
18 the non-rural areas under bidding subject to the rural pro-  
19 gram and the total amount paid for licenses issued pursu-  
20 ant to subparagraph (D). The amount remaining shall be  
21 the total value of all the licenses issued under the rural  
22 program to qualified common carriers.

23       “(D) If no qualified common carrier applies for a  
24 rural program license in a particular market and the Com-  
25 mission awards the non-rural program licenses through

1 competitive bidding, the rural program shall not apply for  
2 that particular market and the Commission shall use com-  
3 petitive bidding to award the licenses for the former rural  
4 program areas, either separately or as part of larger li-  
5 cense areas.

6 “(E) For purposes of this paragraph—

7 “(i) the term ‘rural area’ means any geographic  
8 area that does not include either—

9 “(I) any incorporated place of 10,000 in-  
10 habitants or more, or any part thereof; or

11 “(II) any territory, incorporated or unin-  
12 corporated, included in an urbanized area (as  
13 defined by the Bureau of the Census as of the  
14 date of enactment of the Emerging Tele-  
15 communications Technologies Act of 1993); and

16 “(ii) the term ‘qualified common carrier’ means  
17 a common carrier that—

18 “(I) either provides telephone exchange  
19 service by wire in a rural area, provides tele-  
20 phone exchange service by wire to less than  
21 10,000 subscribers, or is a telephone utility  
22 whose income accrues to a State or political  
23 subdivision thereof; and

24 “(II) submits an application for a rural  
25 program license that meets the standards estab-

1           lished by the Commission to determine ability  
2           to provide the service covered by the license.

3           “(F) The provisions of subparagraph (A)(ii) do not  
4 limit the Commission’s discretion to determine, for li-  
5 censes issued other than under this paragraph, the size  
6 of any market area or the number of licensees for any  
7 service.

8           “(4) The competitive bidding authority provided to  
9 the Commission in paragraph (1) shall not—

10           “(A) because of the need to avoid excessive  
11 service disruption, extend to license renewals and  
12 modifications;

13           “(B) because of the essential services they pro-  
14 vide, extend to licenses reserved for the United  
15 States Government and State or local government  
16 entities;

17           “(C) because of their public service obligations,  
18 extend to licenses to provide amateur operator serv-  
19 ices, over-the-air terrestrial radio and television  
20 broadcast services, public safety services, and radio  
21 astronomy services;

22           “(D) because they do not involve mutually ex-  
23 clusive applications, extend to private radio end-user  
24 licenses, including Specialized Mobile Radio Service

1 (SMRS), maritime, and aeronautical end-user  
2 licenses;

3 “(E) because of the need to avoid excessive  
4 service disruption, extend to any license grant to a  
5 non-Federal licensee being moved from its current  
6 frequency assignment to a different one by the Com-  
7 mission in order to make spectrum available for new  
8 technologies; and

9 “(F) extend to any other service, class of serv-  
10 ices, or assignments that the Commission deter-  
11 mines, after conducting public notice and comment  
12 proceedings, should be exempt from competitive bid-  
13 ding because of public interest factors warranting an  
14 exemption to the extent the Commission determines  
15 the use of competitive bidding would jeopardize ap-  
16 propriate treatment of those factors.

17 “(5) No provision of this subsection or of the Emerg-  
18 ing Telecommunications Technologies Act of 1993 shall  
19 be construed, in any way, to—

20 “(A) alter spectrum allocation criteria and pro-  
21 cedures established by the other provisions of this  
22 Act;

23 “(B) allow the Commission to consider potential  
24 revenues from competitive bidding when making de-  
25 cisions concerning spectrum allocation;



1 **SEC. 409. REGULATORY PARITY.**

2 (a) AMENDMENT.—Section 332 of the Act (47 U.S.C.  
3 332) is amended—

4 (1) by striking “PRIVATE LAND” from the head-  
5 ing of the section; and

6 (2) by amending subsection (c) to read as  
7 follows:

8 “(c)(1)(A) A person engaged in the provision of com-  
9 mercial mobile services shall, insofar as such person is so  
10 engaged, be treated as a common carrier for purposes of  
11 this Act, except that the Commission may waive the re-  
12 quirements of sections 203, 204, 205, and 214, and the  
13 30-day notice provision of section 309(a), for commercial  
14 mobile services and such other provisions of title II as the  
15 Commission may, consistent with the public interest,  
16 specify by rule. In prescribing any such rule, the Commis-  
17 sion may not waive for commercial mobile services the re-  
18 quirements of section 201, 202, 206, 208, 209, 215(c),  
19 216, 217, 220 (d) or (e), 223, 225, 226 (a), (b), (c), (d),  
20 (e), (f), (g), or (i), 227, or 228, or any other provision  
21 that is necessary in order to ensure that the charges, prac-  
22 tices, classifications, or regulations for or in connection  
23 with commercial mobile services are just and reasonable  
24 and are not unjustly or unreasonably discriminatory or  
25 that is otherwise in the public interest.

1       “(B) Upon reasonable request of any person provid-  
2 ing commercial mobile service, the Commission shall order  
3 a common carrier to establish physical connections with  
4 such service pursuant to section 201. Except to the extent  
5 that the Commission is required to respond to such a re-  
6 quest, this subparagraph shall not be construed as a limi-  
7 tation or expansion of the Commission’s authority to order  
8 interconnection under this Act.

9       “(2) A person engaged in private land mobile service  
10 shall not, insofar as such person is so engaged, be treated  
11 as a common carrier for any purpose under this Act. A  
12 common carrier shall not provide any dispatch service on  
13 any frequency allocated for common carrier service, except  
14 to the extent that such dispatch service is provided on sta-  
15 tions licensed by the Commission in the Specialized Mobile  
16 Radio Service prior to May 24, 1993, or is provided on  
17 stations licensed in the domestic public land mobile radio  
18 service before January 1, 1982. The Commission may by  
19 regulation terminate, in whole or in part, the prohibition  
20 contained in the preceding sentence if the commission de-  
21 termines that such termination will service the public  
22 interest.

23       “(3)(A) Notwithstanding sections 2(b) and 221(b),  
24 no State or local government shall have any authority to  
25 regulate the entry of or the rates charged by any commer-

1 cial mobile service or any private land mobile service, ex-  
2 cept that this paragraph shall not prohibit a State from  
3 regulating the other terms and conditions of commercial  
4 mobile services. Nothing in this subparagraph shall ex-  
5 empt providers of commercial mobile services (where such  
6 services are a substitute for land line telephone exchange  
7 service for a substantial portion of the communications  
8 within such State) from requirements imposed by a State  
9 commission on all providers of telecommunications serv-  
10 ices necessary to ensure the continued availability of tele-  
11 phone exchange service at affordable rates.

12 “(B) Notwithstanding subparagraph (A), a State  
13 may petition the Commission for authority to regulate the  
14 rates for any commercial mobile service if such State dem-  
15 onstrates that (i) such service is a substitute for land line  
16 telephone exchange service for a substantial portion of the  
17 communications within such State, or (ii) market condi-  
18 tions with respect to such services fail to protect subscrib-  
19 ers adequately from unjust and unreasonable rates or  
20 rates that are unjustly or unreasonably discriminatory.  
21 The Commission shall provide reasonable opportunity for  
22 public comment in response to such petition, and shall,  
23 within 9 months after the date of its submission, grant  
24 or deny such petition. If the Commission grants such peti-  
25 tion, the Commission shall authorize the State to exercise

1 under State law such authority over rates, for such periods  
2 of time, as the Commission deems necessary to ensure that  
3 such rates are just and reasonable and not unjustly or  
4 unreasonably discriminatory.

5       “(C) If a State has in effect on June 1, 1993, any  
6 regulation concerning the rates for any commercial mobile  
7 service, such State may, no later than 1 year after the  
8 date of enactment of the Emerging Telecommunications  
9 Technologies Act of 1993, petition the Commission re-  
10 questing that the State be authorized to continue exercis-  
11 ing authority over such rates. The State’s existing regula-  
12 tion shall, notwithstanding subparagraph (A), remain in  
13 effect until the Commission issues a final order granting  
14 or denying such petition. The Commission shall review  
15 such petition in accordance with the procedures and sched-  
16 ule established in subparagraph (B), and shall grant such  
17 petition if the State satisfies the showing required under  
18 subparagraph (B)(i) or (B)(ii). If the Commission grants  
19 such petition, the Commission shall authorize the State  
20 to exercise under the State law such authority over rates,  
21 for such period of time, as the Commission deems nec-  
22 essary to ensure that such rates are just and reasonable  
23 and not unjustly or unreasonably discriminatory.

24       “(D) After a reasonable period of time, as determined  
25 by the Commission, has elapsed from the issuance of an

1 order under subparagraph (B) or (C), any interested party  
2 may petition the Commission for an order that the exer-  
3 cise of authority by a State pursuant to such subpara-  
4 graph is no longer necessary to ensure that the rates for  
5 commercial mobile services are just and reasonable and  
6 not unjustly or unreasonably discriminatory. The Commis-  
7 sion shall provide reasonable opportunity for public com-  
8 ment in response to such petition, and shall, within 9  
9 months after the date of its submission, grant or deny  
10 such petition in whole or in part.

11       “(4) Nothing in this subsection shall be construed to  
12 alter or affect the regulatory treatment required by title  
13 IV of the Communications Satellite Act of 1962 of the  
14 corporation authorized by title III of such Act.

15       “(5) The Commission shall continue to determine  
16 whether the provision of space segment capacity by sat-  
17 ellite systems to providers of commercial mobile services  
18 shall be treated as common carriage.

19       “(6) The provisions of section 310(b) shall not apply  
20 to any lawful foreign ownership in a provider of commer-  
21 cial mobile services prior to May 24, 1993, if that provider  
22 was not regulated as a common carrier prior to the date  
23 of enactment of the Emerging Telecommunications Tech-  
24 nologies Act of 1993 and is deemed to be a common  
25 carrier under this Act.

1 “(7) For purposes of this section—

2 “(A) the term ‘commercial mobile service’  
3 means any mobile service (as defined in section  
4 3(n)) that, as specified by regulation by the Com-  
5 mission, is provided for profit and makes inter-  
6 connected service available (i) to the public or (ii) to  
7 such broad classes of eligible users as to be effec-  
8 tively available to a substantial portion of the public;

9 “(B) the term ‘interconnected service’ means  
10 service that is interconnected with the public  
11 switched network (as such term is defined by regula-  
12 tion by the Commission) or service for which inter-  
13 connection pursuant to paragraph (1)(B) is pending;  
14 and

15 “(C) the term ‘private land mobile service’  
16 means any mobile service (as defined in section  
17 3(n)) that is not a commercial mobile service under  
18 subparagraph (A).”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) DEFINITION OF MOBILE SERVICE.—Section  
21 3 of the Act (47 U.S.C. 153) is amended—

22 (A) in subsection (n)—

23 (i) by inserting “(1)” immediately  
24 after “and includes”; and

1           (ii) by inserting immediately before  
2           the period at the end the following: “, (2)  
3           a mobile service which provides a regularly  
4           interacting group of base, mobile, portable,  
5           and associated control and relay stations  
6           (whether licensed on an individual, cooper-  
7           ative, or multiple basis) for private one-  
8           way or two-way land mobile radio commu-  
9           nications by eligible users over designated  
10          areas of operation, and (3) any service for  
11          which a license is required in a personal  
12          communications service established pursu-  
13          ant to the proceeding entitled ‘Amendment  
14          to the Commission’s Rules to Establish  
15          New Personal Communications Services’  
16          (GEN Docket No. 90–314; ET Docket No.  
17          92–100), or any successor proceeding; but  
18          such term does not include any rural radio  
19          service as defined by the Commission and  
20          does not include the provision, by a local  
21          exchange carrier, of telephone exchange  
22          service by radio instead of by wire”; and  
23          (B) by striking subsection (gg).

24           (2) REGULATION OF INTRASTATE COMMUNICA-  
25          TIONS.—Section 2(b) of the Act (47 U.S.C. 152(b))

1 is amended by inserting “and section 332” imme-  
2 diately after “inclusive,”.

3 (c) RULEMAKING SCHEDULE; EFFECTIVE DATE.—

4 (1) RULEMAKING REQUIRED.—Within 1 year  
5 after the date of enactment of this Act, the Commis-  
6 sion shall—

7 (A) issue such modifications or termi-  
8 nations of its regulations as are necessary to  
9 implement the amendments made by subsection  
10 (a);

11 (B) make such other modifications of such  
12 regulations as may be necessary to promote  
13 parity in the regulatory treatment of providers  
14 of all commercial mobile services that offer  
15 services that are substantially similar; and

16 (C) include in such modifications and ter-  
17 minations such provisions as are necessary to  
18 provide for an orderly transition to the regu-  
19 latory treatment required by such amendments.

20 (2) EFFECTIVE DATE.—The amendments made  
21 by subsection (a) shall be effective 1 year after such  
22 date of enactment, except that—

23 (A) section 332(c)(1)(A) of the Act, as  
24 added by such amendments, shall take effect  
25 upon such date of enactment; and

1 (B) any person that provides private land  
2 mobile services before such date of enactment  
3 shall continue to be treated as a provider of pri-  
4 vate land mobile service until 3 years after such  
5 date of enactment.

6 **SEC. 410. DEADLINES FOR PCS ORDERS AND LICENSING.**

7 The Commission shall—

8 (1) within 180 days after the date of enactment  
9 of this Act, issue a final report and order (A) in the  
10 matter entitled “Redevelopment of Spectrum to En-  
11 courage Innovation in the Use of New Telecommuni-  
12 cations Technologies” (ET Docket No. 92–9); and  
13 (B) in the matter entitled “Amendment of the Com-  
14 mission’s Rules to Establish New Personal Commu-  
15 nications Services” (GEN Docket No. 90–314; ET  
16 Docket No. 92–100); and

17 (2) within 270 days after such date of enact-  
18 ment, commence issuing licenses and permits in the  
19 personal communications service.

20 **SEC. 411. DEFINITIONS.**

21 As used in this subtitle:

22 (1) The term “allocation” means an entry in  
23 the National Table of Frequency Allocations of a  
24 given frequency band for the purpose of its use by  
25 one or more radiocommunication services.

1           (2) The term “assignment” means an author-  
2           ization given to a station licensee to use specific fre-  
3           quencies or channels in a particular geographic area.

4           (3) The term “commercial carrier” means any  
5           entity that uses a facility licensed by the Federal  
6           Communications Commission pursuant to the Com-  
7           munications Act of 1934 for hire or for its own use,  
8           but does not include Federal Government stations li-  
9           censed pursuant to section 305 of the Act (47  
10          U.S.C. 305).

11          (4) The term “Commission” means the Federal  
12          Communications Commission.

13          (5) The term “Secretary” means the Secretary  
14          of Commerce.

15          (6) The term “the Act” means the Communica-  
16          tions Act of 1934 (47 U.S.C. 151 et seq.).

## 17       **Subtitle B—Vessel Tonnage Duties**

### 18       **SEC. 451. EXTENSION OF VESSEL TONNAGE DUTIES.**

19          (a) EXTENSION OF DUTIES.—Section 36 of the Act  
20          of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121),  
21          is amended—

22               (1) by striking “and 1995,” each place it ap-  
23               pears and inserting in lieu thereof “1995, 1996,  
24               1997, and 1998,”;

1           (2) by striking “place,” and inserting in lieu  
2 thereof “place;”; and

3           (3) by striking “port, not, however, to include  
4 vessels in distress or not engaged in trade” and in-  
5 serting in lieu thereof “port. However, neither duty  
6 shall be imposed on vessels in distress or not en-  
7 gaged in trade”.

8           (b) CONFORMING AMENDMENT.—The Act of March  
9 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended  
10 by striking “and 1995,” and inserting in lieu thereof  
11 “1995, 1996, 1997, and 1998.”.

12           (c) TECHNICAL CORRECTION.—

13           (1) CORRECTION.—Section 10402(a) of the  
14 Omnibus Budget Reconciliation Act of 1990 (104  
15 Stat. 1388–398) is amended by striking “in the sec-  
16 ond paragraph”.

17           (2) EFFECTIVE DATE.—The amendment made  
18 by paragraph (1) shall be effective on and after No-  
19 vember 5, 1990.

1 **TITLE V—COMMITTEE ON EN-**  
2 **ERGY AND NATURAL RE-**  
3 **SOURCES**

4 **Subtitle A—Recreation and**  
5 **Commercial Use Fees**

6 **SEC. 5001. ADMISSION FEES.**

7 Section 4(a) of the Land and Water Conservation  
8 Fund Act of 1965 (16 U.S.C. 460l–6a(a)), is amended:

9 (1) by inserting in the first sentence of the first  
10 paragraph after the words “National Park System”  
11 the words “and for fiscal years 1994 through 1998,  
12 the Bureau of Land Management” and by inserting  
13 after the words “National Recreation Areas” the  
14 words “, and for fiscal years 1994 through 1998,  
15 National Monuments, National Volcanic Monuments,  
16 National Scenic Areas, and areas of concentrated  
17 public use”; and

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

20 “(13) For the purposes of this subsection,  
21 ‘areas of concentrated public use’ shall meet each of  
22 the following criteria:

23 “(A) be managed primarily for outdoor  
24 recreation purposes;

1           “(B) provide facilities and services nec-  
2           essary to accommodate heavy public use;

3           “(C) contain at least one major recreation  
4           attraction including, but not limited to, a lake,  
5           river, historical site, or geologic feature; and

6           “(D) provide public access such that ad-  
7           mission fees can be efficiently collected at one  
8           or more centralized locations.”.

9   **SEC. 5002. RECREATION USE FEES.**

10       (a) IN GENERAL.—The first sentence of section 4(b)  
11 of the Land and Water Conservation Fund Act of 1965  
12 (16 U.S.C. 460l–6a(b)) is amended by striking out “visi-  
13 tors’ centers,” and all that follows down through the pe-  
14 riod at the end thereof and inserting the following: “scenic  
15 drives, or toilet facilities: *Provided*, That in no event shall  
16 there be any charge for the use of any campground not  
17 having a majority of the following: tent or trailer spaces,  
18 picnic tables, drinking water, access road, refuse contain-  
19 ers, toilet facilities, fee collection by an employee or agent  
20 of the Federal agency operating the facility, reasonable  
21 visitor protection, and simple devices for containing a  
22 campfire (where campfires are permitted). For purposes  
23 of this subsection, the term ‘specialized outdoor recreation  
24 site’ includes but shall not be limited to campgrounds,

1 swimming sites, boat launch facilities, and managed park-  
2 ing lots.”.

3 (b) COSTS OF COLLECTION.—Section 4(i) of the  
4 Land and Water Conservation Fund Act of 1965 (16  
5 U.S.C. 460l–6a(i)) is amended by inserting “(A)” after  
6 “(1)” and by adding the following at the end of paragraph  
7 (1):

8 “(B) Notwithstanding subparagraph (A), in any  
9 fiscal year, the Secretary of Agriculture and the Sec-  
10 retary of the Interior may withhold from the special  
11 account established under subparagraph (A) such  
12 portion of all receipts the fees collected in that fiscal  
13 year under this section as such Secretary determines  
14 to be equal to the additional fee collection costs for  
15 that fiscal year. The amounts so withheld shall be  
16 retained by the Secretary of Agriculture or the Sec-  
17 retary of the Interior and shall be available, without  
18 further appropriation, for expenditure by the Sec-  
19 retary concerned in the fiscal year in which collected  
20 to cover such additional fee collection costs. The  
21 Secretary concerned shall deposit in the special ac-  
22 count established pursuant to subparagraph (A) any  
23 amounts so retained which remain unexpended and  
24 unobligated at the end of such fiscal year. For the  
25 purposes of this subparagraph, for any fiscal year,

1 the term ‘additional fee collection costs’ means those  
2 costs for personnel and infrastructure directly asso-  
3 ciated with the collection fees imposed under this  
4 section which exceed the costs for personnel and in-  
5 frastructure directly associated with the collection of  
6 such fees during fiscal year 1993.’’.

7 (c) COMMERCIAL TOUR USE FEES.—(1) For fiscal  
8 years 1994 through 1998, in the case of each unit of the  
9 National Park System for which an admission fee is  
10 charged under section 4 of the Land and Water Conserva-  
11 tion Fund Act of 1965 (16 U.S.C. 4601–4), the Secretary  
12 of the Interior shall establish, by October 1, 1993, a com-  
13 mercial tour use fee to be imposed on each vehicle entering  
14 the unit for the purpose of providing commercial tour serv-  
15 ices within the unit. Fee revenue derived from such com-  
16 mercial tour use fees shall be deposited into the special  
17 account established under section 4(i) of the Land and  
18 Water Conservation Fund Act of 1965.

19 (2) The Secretary shall establish the amount of fee  
20 per entry as follows:

21 (A) \$25 per vehicle with a passenger capacity  
22 of 25 persons or less, and

23 (B) \$50 per vehicle with a passenger capacity  
24 of more than 25 persons.

1 (3) The commercial tour use fee imposed under this  
2 subsection shall not apply to either of the following:

3 (A) Any vehicle transporting organized school  
4 groups or outings conducted for educational pur-  
5 poses by schools or other bona fide edu-  
6 cational institutions.

7 (B) Any vehicle entering a park system unit  
8 pursuant to a contract issued under the Act of Octo-  
9 ber 9, 1965 (16 U.S.C. 20–20g) entitled “An Act re-  
10 lating to the establishment of concession policies in  
11 the areas administered by the National Park Service  
12 and for other purposes.”.

13 (d) NON-FEDERAL GOLDEN EAGLE PASSPORT  
14 SALES.—Section 4(a)(1)(A) of the Land and Water Con-  
15 servation Fund Act of 1965 (16 U.S.C. 460l–6a(a)(1)(A))  
16 is amended by redesignating the paragraph as  
17 4(a)(1)(A)(i) and adding at the end thereof the following  
18 new paragraph:

19 “(ii) For fiscal years 1994 through 1998, the Sec-  
20 retary of the Interior and the Secretary of Agriculture  
21 may authorize businesses, non-profit entities, and other  
22 organizations to sell and collect fees for the Golden Eagle  
23 Passport subject to such conditions as the Secretaries may  
24 jointly prescribe. The Secretaries shall develop detailed  
25 guidelines for promotional advertising of non-Federal

1 Golden Eagle Passport sales and shall monitor compliance  
2 with such guidelines. The Secretaries may authorize the  
3 sellers to maintain an inventory of Golden Eagle Passports  
4 for periods not to exceed 6 months, and to withhold  
5 amounts up to, but not exceeding 7 per centum of the  
6 fees of the gross fees collected from the sale of such pass-  
7 ports as reimbursement for actual expenses of the sales.”.

8 **SEC. 5003. RADIO AND TELEVISION COMMUNICATION SITE**  
9 **FEEES.**

10 (a) Notwithstanding any other provision of law, the  
11 Secretary of Agriculture and the Secretary of the Interior  
12 (hereinafter referred to as “the Secretaries”), shall assess  
13 and collect charges for utilization of radio and television  
14 communications sites located on Federal lands adminis-  
15 tered by the Forest Service or the Bureau of Land Man-  
16 agement at such rates as the Forest Service and the Bu-  
17 reau of Land Management shall establish or at such modi-  
18 fied rates as are established pursuant to the provisions  
19 of subsection (b) of this section.

20 (b) The schedule of charges established under this  
21 section shall be reviewed by the Forest Service and the  
22 Bureau of Land Management on an annual basis, and  
23 shall be adjusted by the Forest Service and the Bureau  
24 of Land Management to reflect changes in the Consumer  
25 Price Index. Increases or decreases in charges shall apply

1 to all categories of charges, but any increase or decrease  
2 shall not total less than 3 percent or more than 5 percent  
3 of the charge assessed to the user in the preceding year.  
4 The Bureau of Land Management and the Forest Service  
5 shall transmit to the Congress notification of any such ad-  
6 justment not later than 60 days before the effective date  
7 of such adjustment.

8           (1) Under the schedule of charges established  
9           under the section, if any radio or television commu-  
10          nications site user is to be charged an amount that  
11          is greater than \$1,000 more than the amount such  
12          site user pays to the Bureau of Land Management  
13          or the Forest Service as of January 1, 1993, then  
14          during the first year in which the schedule of  
15          charges is in effect, such site user shall pay an  
16          amount equal to the amount it paid to the Bureau  
17          of Land Management or the Forest Service as of  
18          January 1, 1993 plus \$1,000. Each year thereafter,  
19          such site user shall pay the full amount under the  
20          schedule of charges, as modified pursuant to the  
21          subsection.

22           (2) Under the schedule of charges established  
23          under this section, if any radio or television commu-  
24          nications site user is to be charged an amount that  
25          is less than the amount such site user paid to the

1 Bureau of Land Management or the Forest Service  
2 as of January 1, 1993, such site user shall continue  
3 to pay the higher amount until such time as the  
4 charge to the site user in the schedule of charges  
5 equals or exceeds that amount, as modified pursuant  
6 to this subsection.

7 (c)(1) If the radio or television communications site  
8 user is permitted under the terms of its site use authoriza-  
9 tion from the Bureau of Land Management or the Forest  
10 Service to grant access to the site to additional users, then  
11 the radio or television communications site user shall pay  
12 annually to the Bureau of Land Management or the For-  
13 est Service an amount equal to 25 percent of the gross  
14 income it receives from each such additional user during  
15 that year.

16 (2) Authorizations to radio and television commu-  
17 nications site users shall require such site users to provide  
18 the Bureau of Land Management or the Forest Service  
19 with a certified list which identifies all additional users  
20 of such sites and all gross revenues received from such  
21 additional users. The Bureau of Land Management and  
22 the Forest Service shall not require any additional user  
23 of a radio or television communications site to obtain a  
24 separate authorization to use such a site.

1 (d)(1) The Secretaries shall prescribe appropriate  
2 rules and regulations to carry out the provisions of this  
3 section.

4 (2) Ten years after the date of enactment of this sec-  
5 tion, the Secretaries shall establish a broad-based advisory  
6 group, including representatives from the radio and tele-  
7 vision broadcast industry, to review the schedule of  
8 charges and other acceptable criteria for determining fair  
9 market value for radio and television communications site  
10 users. The advisory group shall report its findings to the  
11 Congress no later than 1 year after it is established.

12 (e)(1) Until modified pursuant to subsection (b) of  
13 this section, the schedule of charges for television commu-  
14 nications site users which the Secretaries shall prescribe  
15 pursuant to subsection (a) of this section shall be as listed  
16 in exhibit 3, (television rental fee schedule) in the report  
17 of the radio and television broadcast use fee advisory com-  
18 mittee dated December 1992.

19 (2) Until modified pursuant to subsection (b) of this  
20 section, the schedule of charges for radio communications  
21 site users which the Secretaries shall prescribe pursuant  
22 to subsection (a) of this section shall be as listed in exhibit  
23 4, (radio rental fee schedule) in the report of the radio  
24 and television broadcast use fee advisory committee dated  
25 December 1992.

1 (f)(1) The Secretaries are directed to jointly establish  
2 a broad-based advisory group comprised of representatives  
3 from the non-broadcast communications industry (users of  
4 both private and public communication sites) and the two  
5 agencies to review recommendations on acceptable criteria  
6 for determining fair market values and next best alter-  
7 native use.

8 (2) The advisory group shall review the methodology  
9 used in any previous studies and reach concurrence on  
10 such methodology.

11 (3) The advisory group shall also assess the validity  
12 of the results of such studies, taking into account all rea-  
13 sonable options for the establishment of fair market values  
14 and next best alternative use.

15 (4) The advisory group shall report its findings to  
16 the Committee on Energy and Natural Resources of the  
17 United States Senate and the Committee on Natural Re-  
18 sources of the United States House of Representatives  
19 within one year after the enactment of this Act.

20 **Subtitle B—Hardrock Mining**  
21 **Claim Maintenance Fee**

22 **SEC. 5101. FEE.**

23 (a) Except as provided in section 2511(e)(2) of the  
24 Energy Policy Act of 1992, for each unpatented mining  
25 claim, mill or tunnel site on federally owned lands, whether

1 located before or after enactment of this Act, each claim-  
2 ant shall pay to the Secretary of the Interior, on or before  
3 August 31 of each year, for years 1994 through 1998, a  
4 claim maintenance fee of \$100 per claim to hold such  
5 unpatented mining claim, mill or tunnel site for the assess-  
6 ment year beginning at noon on the next day, September  
7 1. Such claim maintenance fee shall be in lieu of the as-  
8 sessment work requirement contained in the Mining Law  
9 of 1872 (30 U.S.C. 28–28e) and the related filing require-  
10 ments contained in section 314(a) and (c) of the Federal  
11 Land Policy and Management Act of 1976 (43 U.S.C.  
12 1744(a) and (c)).

13 (b)(1) The claim maintenance fee required under this  
14 section shall be waived for a claimant who certifies in writ-  
15 ing to the Secretary that on the date the payment was  
16 due, the claimant and all related parties—

17 (A) held not more than 10 mining claims, mill  
18 sites, or tunnel sites, or any combination thereof, on  
19 public lands; and

20 (B) have performed assessment work required  
21 under the Mining Law of 1872 (30 U.S.C. 28–28e)  
22 to maintain the mining claims held by the claimant  
23 and such related parties for the assessment year  
24 ending on noon of September 1 of the calendar year

1 in which payment of the claim maintenance fee was  
2 due.

3 (2) For purposes of paragraph (1), with respect to  
4 any claimant, the term “all related parties” means—

5 (A) the spouse and dependent children (as de-  
6 fined in section 152 of the Internal Revenue Code of  
7 1986), of the claimant; or

8 (B) a person affiliated with the claimant, in-  
9 cluding—

10 (i) a person controlled by, controlling, or  
11 under common control with the claimant; or

12 (ii) a subsidiary or parent company or cor-  
13 poration of the claimant.

14 (c)(1) The Secretary shall adjust the fees required  
15 by this section to reflect changes in the Consumer Price  
16 Index published by the Bureau of Labor Statistics of the  
17 Department of Labor every 5 years after the date of enact-  
18 ment of this Act, or more frequently if the Secretary deter-  
19 mines an adjustment to be reasonable.

20 (2) The Secretary shall provide claimants notice of  
21 any adjustment made under this subsection not later than  
22 July 1 of any year in which the adjustment is made.

23 (3) A fee adjustment under this section shall begin  
24 to apply the calendar year following the calendar year in  
25 which it is made.

1 (d) Monies received under this section shall be depos-  
2 ited as miscellaneous receipts in the Treasury.

3 **SEC. 5102. LOCATION.**

4 (a) Notwithstanding any provision of law, for every  
5 unpatented mining claim, mill or tunnel site located after  
6 the date of enactment of this subtitle and before Septem-  
7 ber 30, 1998, the locator shall, at the time the location  
8 notice is recorded with the Bureau of Land Management,  
9 pay to the Secretary of the Interior a location fee, in addi-  
10 tion to the fee required by section 5101, of \$25.00 per  
11 claim.

12 (b) Moneys received under this section shall be depos-  
13 ited as miscellaneous receipts in the Treasury.

14 **SEC. 5103. CO-OWNERSHIP.**

15 The co-ownership provisions of the Mining Law of  
16 1872 (30 U.S.C. 28–28e) will remain in effect except that  
17 the annual claim maintenance fee, where applicable, shall  
18 replace applicable assessment requirements and expendi-  
19 tures.

20 **SEC. 5104. FAILURE TO PAY.**

21 Failure to pay the claim maintenance fee as required  
22 by section 5101 of this subtitle shall conclusively con-  
23 stitute a forfeiture of the unpatented mining claim, mill  
24 or tunnel site by the claimant and the claim shall be  
25 deemed null and void by operation of law.

1 **SEC. 5105. OTHER REQUIREMENTS.**

2 (a) Nothing in this subtitle shall change or modify  
3 the requirements of section 314(b) of the Federal Land  
4 Policy and Management Act of 1976 (43 U.S.C. 1744(b)),  
5 or the requirements of section 314(c) of the Federal Land  
6 Policy and Management Act of 1976 (43 U.S.C. 1744(c))  
7 related to filings required by section 314(b), which remain  
8 in effect.

9 (b) The third sentence of 2324 of the Revised Stat-  
10 utes (30 U.S.C. 28) is amended by inserting after “On  
11 each claim located after the 10th day of May, 1972,” the  
12 following: “that is eligible for a waiver under section 5101  
13 of the Omnibus Budget Reconciliation Act of 1993,”.

14 **SEC. 5106. REGULATIONS.**

15 The Secretary of the Interior shall promulgate rules  
16 and regulations to carry out the purposes of this subtitle  
17 as soon as practicable after the date of enactment of this  
18 subtitle.

19 **Subtitle C—Commonwealth of**  
20 **Northern Mariana Islands**  
21 **Agreement**

22 **SEC. 5201. COMMONWEALTH OF NORTHERN MARIANA IS-**  
23 **LANDS AGREEMENT.**

24 Public Law 94–241 (90 Stat. 263), as amended, is  
25 further amended by striking “law” in subsection 4(b) and  
26 inserting in lieu thereof the following: “law: *Provided,*

1 That for fiscal years 1994 through 1998, payments shall  
2 be limited to the amounts and for the purposes set forth  
3 in the Agreement of the Special Representatives on Future  
4 Federal Financial Assistance of the Northern Mariana Is-  
5 lands, executed on December 17, 1992 between the special  
6 representative of the President and the special representa-  
7 tives of the Governor of the Northern Mariana Islands:  
8 *Provided further*, That after 1998, the amount shall con-  
9 tinue at the annual amount of \$27.720 million.

## 10 **Subtitle D—Mineral Receipts**

### 11 **SEC. 5301. AMENDMENT TO THE MINERAL LEASING ACT.**

12 Section 35 of the Mineral Leasing Act, as amended  
13 (30 U.S.C. 191) is amended as follows:

14 (1) by deleting the last sentence and redesignat-  
15 ing the remaining language as subsection (a);

16 (2) by amending subsection (a) by inserting the  
17 words “and, subject to the provisions of subsection  
18 (b),” between the words “United States;” and “50  
19 per centum”;

20 (3) by adding a new subsection (b) as follows:

21 “(b)(1) In calculating the amount to be paid to States  
22 during any fiscal year under this section or under any  
23 other provision of law requiring payment to a State of any  
24 revenues derived from the leasing of any onshore lands  
25 or interest in land owned by the United States for the

1 production of the same types of minerals leasable under  
2 this Act or of geothermal steam, 50 per centum of the  
3 portion of the enacted appropriation of the Department  
4 of the Interior and any other agency during the preceding  
5 fiscal year allocable to the administration of all laws pro-  
6 viding for the leasing of any onshore lands or interest in  
7 land owned by the United States for the production of the  
8 same types of minerals leasable under this Act or of geo-  
9 thermal steam, and in enforcing such laws, shall be de-  
10 ducted from the receipts derived under those laws in ap-  
11 proximately equal amounts each month (subject to para-  
12 graph (4)) prior to the division and distribution of such  
13 receipts between the States and the United States.

14       “(2) The proportion of the deduction provided in  
15 paragraph (1) allocable to each State shall be determined  
16 by dividing the monies disbursed to the State during the  
17 preceding fiscal year derived from onshore mineral leasing  
18 referred to in paragraph (1) in that State by the total  
19 money disbursed to States during the preceding fiscal year  
20 from such onshore mineral leasing in all States.

21       “(3) In the event the deduction apportioned to any  
22 State under this subsection exceeds 50 per centum of the  
23 Secretary of the Interior’s estimate of the amounts attrib-  
24 utable to onshore mineral leasing referred to in paragraph  
25 (1) within that State during the preceding fiscal year, the

1 deduction from receipts received from leases in that State  
2 shall be limited to such estimated amounts and the total  
3 amount to be deducted from such onshore mineral leasing  
4 receipts shall be reduced accordingly.

5       “(4) If the amount otherwise deductible under this  
6 subsection in any month from the portion of receipts to  
7 be distributed to a State exceeds the amount payable to  
8 the State during that month, any amount exceeding the  
9 amount payable shall be carried forward and deducted  
10 amounts payable to the State in subsequent months. If  
11 any amount remains to be carried forward at the end of  
12 the fiscal year, such amount shall not be deducted from  
13 any disbursements in any subsequent fiscal year.

14       “(5) All deductions to be made pursuant to this sub-  
15 section shall be made in full during the fiscal year in which  
16 such deductions were incurred.

17       “(6) All amounts deducted under this subsection  
18 from monies otherwise payable to a State shall be credited  
19 to miscellaneous receipts in the Treasury.”.

20 **SEC. 5302. CONFORMING AMENDMENTS.**

21       (a) Section 6 of the Mineral Leasing Act for Acquired  
22 Lands, as amended (30 U.S.C. 355), is amended by add-  
23 ing the following words “Subject to the provisions of 30  
24 U.S.C. 191(b),” at the beginning of the first sentence.

1 (b) Section 5(a) of the Geothermal Steam Act, as  
2 amended (30 U.S.C. 1019), is amended by adding the  
3 words “Subject to the provisions of 30 U.S.C. 191(b),”  
4 at the beginning of that section.

5 **TITLE VI—COMMITTEE ON ENVI-**  
6 **RONMENT AND PUBLIC**  
7 **WORKS**

8 **SEC. 6001. NUCLEAR REGULATORY COMMISSION ANNUAL**  
9 **CHARGES.**

10 Section 6101(a)(3) of the Omnibus Budget Reconcili-  
11 ation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by  
12 striking “September 30, 1995” and inserting “September  
13 30, 1998”.

14 **SEC. 6002. CORPS OF ENGINEERS RECREATION USER FEES.**

15 (a) IN GENERAL.—Section 210 of the Flood Control  
16 Act of 1968 (16 U.S.C. 460d-3) is amended—

17 (1) by inserting “(a)” before “No entrance”;

18 (2) by striking the second sentence; and

19 (3) by adding at the end the following new sub-  
20 section:

21 “(b)(1) Except as provided in paragraph (2), notwith-  
22 standing section 4(b) of the Land and Water Conservation  
23 Fund Act of 1965 (16 U.S.C. 460l-6a(b)), the Secretary  
24 of the Army may charge fees for the use of developed

1 recreation sites and facilities, including campsites, swim-  
 2 ming beaches, and boat launching ramps.

3 “(2) The Secretary may not charge fees for the use  
 4 or provision of drinking water, wayside exhibits, general  
 5 purpose roads, overlook sites, toilet facilities, or general  
 6 visitor information.

7 “(3) Fees collected under this subsection shall be de-  
 8 posited into the special account established in the Treas-  
 9 ury of the United States for the Army Corps of Engineers  
 10 under section 4(i) of the Land and Water Conservation  
 11 Fund Act of 1965 (16 U.S.C. 460l-6a(i)).”.

12 (b) CONFORMING AMENDMENT.—Section 4(b) of the  
 13 Land and Water Conservation Fund Act of 1965 (16  
 14 U.S.C. 460l-6a(b)) is amended by striking the second  
 15 sentence.

16 **TITLE VII—FINANCE COMMIT-**  
 17 **TEE RECONCILIATION PROVI-**  
 18 **SIONS RELATING TO MEDI-**  
 19 **CARE, MEDICAID, AND OTHER**  
 20 **PROGRAMS**

21 **SEC. 7000. AMENDMENTS TO SOCIAL SECURITY ACT; REF-**  
 22 **ERENCES; TABLE OF CONTENTS.**

23 (a) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-  
 24 cept as otherwise specifically provided, whenever in this  
 25 title an amendment is expressed in terms of an amend-

1 ment to or repeal of a section or other provision, the ref-  
 2 erence shall be considered to be made to that section or  
 3 other provision of the Social Security Act.

4 (b) REFERENCES TO OBRA.—In this title, the terms  
 5 “OBRA–1986”, “OBRA–1987”, “OBRA–1989”, and  
 6 “OBRA–1990” refer to the Omnibus Budget Reconcili-  
 7 ation Act of 1986 (Public Law 99–509), the Omnibus  
 8 Budget Reconciliation Act of 1987 (Public Law 100–203),  
 9 the Omnibus Budget Reconciliation Act of 1989 (Public  
 10 Law 101–239), and the Omnibus Budget Reconciliation  
 11 Act of 1990 (Public Law 101–508), respectively.

12 (c) REFERENCES TO OMNIBUS BUDGET RECONCILI-  
 13 ATION ACT OF 1993.—Any reference in this title (or in  
 14 any amendment made by this title) to the Omnibus Budg-  
 15 et Reconciliation Act of 1993 shall be deemed to be a ref-  
 16 erence to this title.

17 (d) TABLE OF CONTENTS.—The table of contents of  
 18 this title is as follows:

Sec. 7000. Amendments to Social Security Act; references; table of contents.

Subtitle A—Medicare

PART I—PROVISIONS RELATING TO PART A

Sec. 7101. Payment updates for inpatient hospital services.

Sec. 7102. Payment for indirect costs of medical education.

Sec. 7103. Loss of regional referral center status.

Sec. 7104. Medicare-dependent, small rural hospital payment extension.

Sec. 7105. Elimination of return on equity for proprietary skilled nursing facili-  
 ties.

Sec. 7106. Extension of 10 percent reduction in payments for capital-related  
 costs of inpatient hospital services.

Sec. 7107. Skilled nursing facility cost limits.

Sec. 7108. Payments for hospice care.

## PART II—PROVISIONS RELATING TO PART B

## SUBPART A—PHYSICIANS' SERVICES

- Sec. 7201. Reduction in default update for conversion factor for 1994.
- Sec. 7202. Reduction in performance standard rate of increase and increase in maximum reduction permitted in default update and classification of primary care services as a separate category of services.
- Sec. 7203. Phased-in reduction in practice expense relative value units for certain services.
- Sec. 7204. Limitation on payment for the anesthesia care team.
- Sec. 7205. Separate payment for interpretation of electrocardiograms.
- Sec. 7206. Payments for new physicians and practitioners.
- Sec. 7207. Extra-billing limits.

## SUBPART B—OUTPATIENT HOSPITAL SERVICES AND AMBULATORY SURGICAL SERVICES

- Sec. 7221. Extension of 10 percent reduction in payments for capital-related costs of outpatient hospital services.
- Sec. 7222. Extension of reduction in payments for other costs of outpatient hospital services.
- Sec. 7223. Changes to payment formulas for certain outpatient hospital services.
- Sec. 7224. Reduction in payments for intraocular lenses.

## SUBPART C—DURABLE MEDICAL EQUIPMENT

- Sec. 7231. Revisions to payment rules for durable medical equipment.
- Sec. 7232. Treatment of nebulizers and aspirators.
- Sec. 7233. Payment for surgical dressings.
- Sec. 7234. Payments for tens devices.

## SUBPART D—PART B PREMIUM

- Sec. 7251. Part B premium.

## SUBPART E—OTHER PROVISIONS

- Sec. 7261. Reduction in update for certain part B services.
- Sec. 7262. Payments for clinical diagnostic laboratory tests.

## PART III—PROVISIONS RELATING TO PARTS A AND B

- Sec. 7301. Payments for direct graduate medical education costs.
- Sec. 7302. Revision of home health agency cost limits.
- Sec. 7303. Medicare as secondary payer.
- Sec. 7304. Extension of self-referral ban to additional specified services.
- Sec. 7305. Reduction in payment for erythropoietin.

## Subtitle B—Medicaid Program

## PART I—PROGRAM SAVINGS PROVISIONS

## SUBPART A—REPEAL OF MANDATE

- Sec. 7401. Personal care services furnished outside the home as optional benefit.

## SUBPART B—OUTPATIENT PRESCRIPTION DRUGS

- Sec. 7411. Permitting prescription drug formularies under State plans.
- Sec. 7412. Elimination of special exemption from prior authorization for new drugs.
- Sec. 7413. Modifications to drug rebate program.

## SUBPART C—RESTRICTIONS ON DIVESTITURE OF ASSETS AND ESTATE RECOVERY

- Sec. 7421. Medicaid estate recoveries.
- Sec. 7422. Transfers of assets.
- Sec. 7423. Treatment of certain trusts.

## SUBPART D—IMPROVEMENT IN IDENTIFICATION AND COLLECTION OF THIRD PARTY PAYMENTS

- Sec. 7431. Liability of third parties to pay for care and services.
- Sec. 7432. Medical child support.
- Sec. 7433. Offset of payment obligations relating to medical assistance against overpayments of State and Federal income taxes.

## SUBPART E—ASSURING PROPER PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS

- Sec. 7441. Assuring proper payments to disproportionate share hospitals.

## SUBPART F—ANTI-FRAUD AND ABUSE PROVISIONS

- Sec. 7451. Application of medhcare rules limiting certain physician referrals.

## PART II—OTHER MEDICAID PROVISIONS

- Sec. 7501. Extension of demonstration project on the effect of allowing States to extend medicaid coverage to certain low-income families.

## Subtitle C—Income Security Programs

- Sec. 7601. Matching of State administrative costs.
- Sec. 7602. State paternity establishment programs.
- Sec. 7603. Fees for Federal administration of State supplementary payments.

## Subtitle D—Miscellaneous Provisions

## PART I—TRADE PROVISIONS

- Sec. 7701. Extension of authority to levy customs user fees.
- Sec. 7702. Extension of, and authorization of appropriations for, trade adjustment assistance program.

## PART II—IMPROVED ACCESS TO CHILDHOOD IMMUNIZATIONS

- Sec. 7801. Findings and purpose.
- Sec. 7802. Medicaid immunization provisions.
- Sec. 7803. Central bulk purchasing program for pediatric vaccines.

## PART III—DISCLOSURE PROVISIONS

- Sec. 7901. Disclosure of return information for administration of certain veterans programs.

- Sec. 7902. Disclosure of return information to carry out income contingent repayment of student loans.
- Sec. 7903. Use of return information for income verification under certain housing assistance programs.
- Sec. 7904. Use of return information for health coverage clearinghouse.

PART IV—OTHER PROVISIONS

- Sec. 7950. Disallowance of interest on certain overpayments of tax.
- Sec. 7951. Fees for applications for alcohol labeling and formula reviews.
- Sec. 7952. Use of Harbor Maintenance Trust Fund amounts for administrative expenses.
- Sec. 7953. Increase in presidential election campaign fund check-off.
- Sec. 7954. Increase in public debt limit.

- 1                                   **Subtitle A—Medicare**
- 2                   **PART I—PROVISIONS RELATING TO PART A**
- 3   **SEC. 7101. PAYMENT UPDATES FOR INPATIENT HOSPITAL**
- 4                                   **SERVICES.**
- 5           (a) REDUCTION.—
- 6                   (1) PPS HOSPITALS.—
- 7                           (A)           IN           GENERAL.—Section
- 8                   1886(b)(3)(B)(i)           (42           U.S.C.
- 9                   1395ww(b)(3)(B)(i) is amended—
- 10                           (i) in the matter preceding subclause
- 11                           (I), by striking “fiscal year” and inserting
- 12                           “particular time period”,
- 13                           (ii) in subclause (VIII), by inserting
- 14                           “and the 3 succeeding months” after “fis-
- 15                           cal year 1993”,
- 16                           (iii) in subclause (IX)—
- 17                                   (I) by striking “fiscal year”,
- 18                                   (II) by inserting “minus 2.18
- 19                                   percentage points” after “market bas-

- 1 ket percentage increase” the first  
2 place it appears, and
- 3 (III) by striking “plus 1.5 per-  
4 centage points” and inserting “minus  
5 .68 percentage point”,
- 6 (iv) in subclause (X)—
- 7 (I) by striking “fiscal year”,
- 8 (II) by inserting “minus 2.27  
9 percentage points” after “market bas-  
10 ket percentage increase”, and
- 11 (III) by striking “and” at the  
12 end,
- 13 (v) in subclause (XI)—
- 14 (I) by striking “for fiscal year  
15 1996 and each subsequent fiscal year”  
16 and inserting “for 1996”,
- 17 (II) by inserting “minus 2.0 per-  
18 centage points” after “market basket  
19 percentage increase”, and
- 20 (III) by striking the period and  
21 inserting a comma, and
- 22 (vi) by adding at the end the following  
23 new subclauses:

1           “(XII) for 1997, the market basket percentage  
2 increase minus 1.0 percentage point for hospitals in  
3 all areas, and

4           “(XIII) for 1998 and each subsequent year, the  
5 market basket percentage increase for hospitals in  
6 all areas.”.

7           (B) ADJUSTMENT OF LABOR AND NON-  
8 LABOR PORTIONS OF STANDARDIZED  
9 AMOUNTS.—Section 1886(d)(3)(A) (42 U.S.C.  
10 1395ww(d)(3)(A)) is amended by adding at the  
11 end the following new clause:

12           “(vi) For discharges occurring on or after  
13 January 1, 1995, the Secretary shall adjust the  
14 ratio of the labor portion to non-labor portion  
15 of each average standardized amount to equal  
16 such ratio for the national average standardized  
17 amount.”.

18           (2) OTHER HOSPITALS.—Section  
19 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii))  
20 is amended—

21           (A) by striking “, (C), (D),”

22           (B) by striking “and” at the end of  
23 subclause (III),

24           (C) by striking subclause (IV) and insert-  
25 ing the following new subclauses:

1           “(IV) fiscal years 1988 through 1993 and the  
2           3 succeeding months, is the market basket percent-  
3           age increase,

4           “(V) 1994, is 75 percent of the difference be-  
5           tween the market basket percentage increase and  
6           1.0 percentage point,

7           “(VI) 1995 through 1997, is the market basket  
8           percentage increase minus 1.0 percentage points,  
9           and

10           “(VII) 1998 and each subsequent year, is the  
11           market basket percentage increase.”.

12           (3) SOLE COMMUNITY AND MEDICARE-DEPEND-  
13           ENT, SMALL RURAL HOSPITALS.—

14           (A) IN GENERAL.—Section 1886(b)(3)(B)  
15           (42 U.S.C. 1395ww(b)(3)(B)) is amended by  
16           adding at the end the following new clause:

17           “(iv) For purposes of subparagraphs (C) and (D), the  
18           applicable percentage increase for discharges occurring  
19           during—

20           “(I) cost reporting periods beginning in fiscal  
21           year 1986 through fiscal year 1993 and the 3 suc-  
22           ceeding months, is the increase specified in clause  
23           (ii),

1           “(II) for 1994, is 75 percent of the difference  
2           between the market basket percentage increase and  
3           2.0 percentage points,

4           “(III) for 1995, is the market basket percent-  
5           age increase, minus 2.0 percentage points, and

6           “(IV) for 1996 and each subsequent year, is the  
7           increase described in clause (i) for such year.

8 For purposes of subclause (I), the annual update applied  
9 for a cost reporting period beginning during calendar year  
10 1993 is adjusted to reflect only the time period occurring  
11 from the beginning of the hospital’s cost reporting period  
12 through December 31, 1993.”.

13           (B) TARGET AMOUNT ADJUSTMENT.—

14           (i) SOLE COMMUNITY HOSPITAL.—

15           Section 1886(b)(3)(C) (42 U.S.C.  
16           1395ww(b)(3)(C)) is amended—

17           (I) in clause (i)(II), by striking  
18           “or”,

19           (II) in clause (ii)—

20           (aa) by inserting “or portion  
21           of a cost reporting period occur-  
22           ring before December 31, 1993,”  
23           before “the target amount”,

1 (bb) by striking “subpara-  
2 graph (B)(ii)” and inserting  
3 “subparagraph (B)(iv)”, and

4 (cc) by striking the period at  
5 the end and inserting a comma,  
6 and

7 (dd) by adding at the end  
8 the following new clauses:

9 “(iii) with respect to discharges occurring in  
10 1994, the target amount for the cost reporting pe-  
11 riod beginning in 1993 increased by the applicable  
12 percentage increase under subparagraph (B)(iv), or

13 “(iv) with respect to discharges occurring in  
14 1995 and each subsequent year, the target amount  
15 for the preceding year increased by the applicable  
16 percentage increase under subparagraph (B)(iv).”.

17 (ii) MEDICARE-DEPENDENT, SMALL  
18 RURAL HOSPITAL.—Section 1886(b)(3)(D)  
19 (42 U.S.C. 1395ww(b)(3)(D)) is amend-  
20 ed—

21 (I) in clause (i)(II), by striking  
22 “or”,

23 (II) in clause (ii)—

24 (aa) by inserting “or portion  
25 of a cost reporting period occur-

1 ring before December 31, 1993,”  
2 before “the target amount”,

3 (bb) by striking “subpara-  
4 graph (B)(ii)” and inserting  
5 “subparagraph (B)(iv)”, and

6 (cc) by striking the period at  
7 the end and inserting “, or” and

8 (dd) by adding at the end  
9 the following new clause:

10 “(iii) with respect to discharges occurring in  
11 1994, the target amount for the cost reporting pe-  
12 riod beginning in 1993 increased by the applicable  
13 percentage increase under subparagraph (B)(iv).”.

14 (4) DELAY IN INCREASE IN DISPROPORTIONATE  
15 SHARE PAYMENTS FOR CERTAIN URBAN HOS-  
16 PITALS.—Section 1886(d)(5)(F)(vii)(II) (42 U.S.C.  
17 1395ww(d)(5)(F)(vii)(II)) is amended—

18 (A) in subdivision (b), by striking “Sep-  
19 tember 30, 1993” and inserting “December 31,  
20 1993”, and

21 (B) in subdivision (c), by striking “October  
22 1, 1993” and inserting “January 1, 1994”.

23 (5) REGIONAL FLOOR EXTENDED.—Section  
24 1886(d)(1)(A) (42 U.S.C. 1395ww(d)(1)(A)) is  
25 amended—

1 (i) in clause (ii), by striking “or” at  
2 the end;

3 (ii) in clause (iii), by striking “Sep-  
4 tember 30, 1993, ” and inserting “Decem-  
5 ber 31, 1993”; and

6 (iii) by adding at the end the follow-  
7 ing new clause:

8 “(iv) beginning on and after January 1, 1994,  
9 is equal to the national adjusted DRG prospective  
10 payment rate determined under paragraph (3) for  
11 such discharges.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 1886(b)(3)(B)(iii) (42 U.S.C.  
14 1395ww(b)(3)(B)(iii)) is amended—

15 (A) by inserting “beginning in” after “cost  
16 reporting periods”,

17 (B) by striking “fiscal year” the first place  
18 it appears and inserting “particular time pe-  
19 riod”,

20 (C) by striking “or fiscal year” the first  
21 and second place it appears, and

22 (D) by striking “cost reporting period or  
23 fiscal year” and inserting “period”.

24 (2) The first sentence in the matter in section  
25 1886(d)(3) (42 U.S.C. 1395ww(d)(3)) preceding

1 subparagraph (A) is amended by inserting “or cal-  
2 endar” after “fiscal” the first place it appears.

3 (3) Section 1886(d)(3)(A)(ii) (42 U.S.C.  
4 1395ww(d)(3)(A)(ii)) is amended—

5 (A) by striking “1994,” and inserting  
6 “1992, in the 15-month period beginning on  
7 October 1, 1992, and in 1994,” and

8 (B) by striking “fiscal year” the second  
9 and third place it appears and inserting “time  
10 period”.

11 (4) Section 1886(d)(3)(A)(iii) (42 U.S.C.  
12 1395ww(d)(3)(A)(iii)) is amended by striking “the  
13 fiscal year beginning on October 1, 1994” and in-  
14 sserting “1995”.

15 (5) Section 1886(d)(3)(A)(iv) (42 U.S.C.  
16 1395ww(d)(3)(A)(iv)) is amended—

17 (A) by striking “fiscal year beginning on  
18 or after October 1, 1995” and inserting “year  
19 beginning on or after January 1, 1996”,

20 (B) by striking “and within each region”,  
21 and

22 (C) by striking “fiscal” each place it ap-  
23 pears.

24 (6) Section 1886(d)(3)(D) (42 U.S.C.  
25 1395ww(d)(3)(D)) is amended—

1 (A) by inserting “or calendar” after “fis-  
2 cal” each place it appears, and

3 (B) by inserting “for each fiscal year  
4 through 1993” after “and shall establish”.

5 (7) Section 1886(d)(3)(E) (42 U.S.C.  
6 1395ww(d)(3)(E)) is amended—

7 (A) in the second sentence, by striking  
8 “October 1, 1993” and inserting “January 1,  
9 1994”, and

10 (B) in the last sentence, by inserting “or  
11 calendar” after “fiscal” the first and last place  
12 it appears.

13 (8)(A) Section 1886(d)(4)(C)(iii) (42 U.S.C.  
14 1395ww(d)(4)(C)(iii)) is amended—

15 (i) by inserting “or calendar” after “fiscal”  
16 the first place it appears, and

17 (ii) by deleting “fiscal” the third place it  
18 appears.

19 (B) The requirements of paragraphs (3)(E) and  
20 (4)(C)(iii) of section 1886(d) of the Social Security  
21 Act (42 U.S.C. 1395ww(d)(4)(C)(iii)) shall be ap-  
22 plied on a 15-month basis for the period beginning  
23 on October 1, 1992, and ending on December 31,  
24 1993.

1           (9) Section 1886(d)(4)(E) is (42 U.S.C.  
2 1395ww(d)(4)(E)) is amended by striking “October  
3 1, 1993” and inserting “January 1, 1994”.

4           (10)(A) Section 1886(d)(5)(A)(iv) (42 U.S.C.  
5 1395ww(d)(5)(A)(iv)) is amended by inserting “or  
6 calendar” after “fiscal”.

7           (B) The requirement of section  
8 1886(d)(5)(A)(iv) of the Social Security Act (42  
9 U.S.C. 1395ww(d)(5)(A)(iv)) shall be applied on a  
10 15-month basis for the period beginning on October  
11 1, 1992, and ending on December 31, 1993.

12           (11) Section 1886(d)(5)(B)(i) (42 U.S.C.  
13 1395ww(d)(5)(B)(i)) is amended by striking “or, if  
14 applicable, the amount determined under paragraph  
15 (1)(A)(iii)” and inserting “or, the amount deter-  
16 mined under paragraphs (1)(A)(iii) or (1)(A)(iv), as  
17 applicable”.

18           (12) Section 1886(d)(5)(E)(ii) (42 U.S.C.  
19 1395ww(d)(5)(E)(ii)) is amended by inserting “or  
20 calendar” after “fiscal”.

21           (13) Section 1886(d)(6) (42 U.S.C.  
22 1395ww(d)(5)(6)) is amended by striking “the Sep-  
23 tember 1 before each fiscal year (beginning with fis-  
24 cal year 1984)” and inserting “December 1 each  
25 year”.

1           (14) The matter in section 1886(d)(9)(A) (42  
2 U.S.C. 1395ww(d)(9)(A)) preceding clause (i) is  
3 amended by striking “fiscal year” and inserting  
4 “particular time period”.

5           (15) Section 1886(d)(9)(C)(i) (42 U.S.C.  
6 1395ww(d)(9)(C)(i)) is amended—

7                   (A) by striking “fiscal year” the first place  
8 it appears and inserting “time period”, and

9                   (B) by striking “fiscal years” and inserting  
10 “time periods”.

11           (16) Subparagraphs (A) and (B) of section  
12 1886(e)(3) (42 U.S.C. 1395ww(e)(3)) are each  
13 amended by striking “that fiscal year” and inserting  
14 “the coming fiscal or calendar year”.

15           (17) The first sentence of section 1886(e)(4)(A)  
16 (42 U.S.C. 1395ww(e)(4)(A)) is amended by insert-  
17 ing “or calendar” after “fiscal” the first and last  
18 place it appears.

19           (18) Section 1886(e)(4)(B) (42 U.S.C.  
20 1395ww(e)(4)(B)) is amended by inserting “or cal-  
21 endar” after “fiscal”.

22           (19) Section 1886(e)(5)(A) (42 U.S.C.  
23 1395ww(e)(5)(A)) is amended by striking “that fis-  
24 cal year” and inserting “the coming fiscal or cal-  
25 endar year”.

1           (20) The second and third sentences of section  
 2           1886(e)(5) (42 U.S.C. 1395ww(e)(5)) are each  
 3           amended by inserting “or calendar” after “fiscal”  
 4           each place it appears.

5   **SEC. 7102. PAYMENT FOR INDIRECT COSTS OF MEDICAL**  
 6                                   **EDUCATION.**

7           Section        1886(d)(5)(B)(ii)       (42        U.S.C.  
 8   1395ww(d)(5)(B)(ii)) is amended to read as follows:

9           “(ii) For purposes of clause (i)(II), the indirect  
 10          teaching adjustment factor is equal to  $c \times (((1+r)$   
 11          to the  $n$ th power)  $-1$ ), where ‘ $r$ ’ is the ratio of the  
 12          hospital’s full-time equivalent interns and residents  
 13          to beds and ‘ $n$ ’ equals .405. For discharges occur-  
 14          ring on or after—

15                           “(I) May 1, 1986, and before January 1,  
 16                           1994, ‘ $c$ ’ is equal to 1.89,

17                           “(II) January 1, 1994, and before January  
 18                           1, 1996, ‘ $c$ ’ is equal to 1.728, and

19                           “(III) January 1, 1996, ‘ $c$ ’ is equal to  
 20                           1.605.”.

21   **SEC. 7103. LOSS OF REGIONAL REFERRAL CENTER STATUS.**

22          (a) CONTINUATION OF OTHER URBAN PAYMENT  
 23   RATE THROUGH CALENDAR YEAR 1994.—Effective on  
 24   the date of the enactment of this Act, any hospital that  
 25   was classified as a regional referral center under section

1 1886(d)(5)(C) of the Social Security Act as of September  
2 30, 1992, shall continue to be paid under this subsection  
3 the standardized amount for hospitals located in other  
4 urban areas for discharges occurring before the earlier  
5 of—

6 (1) January 1, 1995, or

7 (2) the reclassification of such hospital as an  
8 urban hospital under section 1886(d)(10)(C) of such  
9 Act.

10 (b) PERMITTING HOSPITALS TO DECLINE RECLASSI-  
11 FICATION.—If any hospital fails to qualify as a rural refer-  
12 ral center under section 1886(d)(5)(C) of the Social Secu-  
13 rity Act as a result of a decision by the Medicare Geo-  
14 graphic Classification Review Board under section  
15 1886(d)(10) of such Act to reclassify the hospital as being  
16 located in an urban area for fiscal year 1993 or fiscal year  
17 1994, the Secretary of Health and Human Services  
18 shall—

19 (1) notify such hospital of such failure to qual-  
20 ify,

21 (2) provide an opportunity for such hospital to  
22 decline such reclassification, and

23 (3) if the hospital declines such reclassification,  
24 administer the Social Security Act (other than sec-

1       tion 1886(d)(8)(D)) for such fiscal year as if the de-  
2       cision by the Review Board had not occurred.

3       (c) REQUIRING LUMP-SUM RETROACTIVE PAYMENT  
4 FOR HOSPITALS LOSING CLASSIFICATION.—

5           (1) IN GENERAL.—In the case of any regional  
6       referral center described in subsection (a), the Sec-  
7       retary of Health and Human Services shall make a  
8       lump-sum payment to the center equal to the dif-  
9       ference between—

10           (A) the aggregate payment made to the  
11       center under section 1886 of the Social Security  
12       Act (excluding outlier payments under sub-  
13       section (d)(5)(A) of such section) during the pe-  
14       riod of applicability described in paragraph (2),  
15       and

16           (B) the aggregate payment that would  
17       have been made to the center under such sec-  
18       tion if, during the period of applicability, the  
19       center had been paid as if subsection (a) of this  
20       section had been in effect.

21           (2) PERIOD OF APPLICABILITY.—In paragraph  
22       (1), the “period of applicability” is the period that  
23       begins on October 1, 1992, and ends on the date of  
24       the enactment of this Act.

1 **SEC. 7104. MEDICARE-DEPENDENT, SMALL RURAL HOS-**  
2 **PITAL PAYMENT EXTENSION.**

3 (a) EXTENSION OF ADDITIONAL PAYMENTS.—

4 (1) IN GENERAL.—Section 1886(d)(5)(G) (42  
5 U.S.C. 1395ww(d)(5)(G)) is amended—

6 (A) in clause (i)—

7 (i) by inserting “(or portion thereof)”  
8 after “cost reporting period” in the matter  
9 preceding subclause (I), and

10 (ii) by striking “March 31, 1993,”  
11 and all that follows and inserting: “Janu-  
12 ary 1, 1995, in the case of a subsection (d)  
13 hospital which is a medicare-dependent,  
14 small rural hospital, payment under para-  
15 graph (1)(A) shall be equal to the sum of  
16 the amount determined under clause (ii)  
17 and the amount determined under clause  
18 (iii) or (iv) of paragraph (1)(A).”;

19 (B) by redesignating clauses (ii) and (iii)  
20 as clauses (iii) and (iv); and

21 (C) by inserting after clause (i) the follow-  
22 ing new clause:

23 “(ii) The amount determined under this clause is—

24 “(I) for discharges occurring during the first 3  
25 12-month cost reporting periods that begin on or  
26 after April 1, 1990, the amount by which the hos-

1       pital's target amount for the cost reporting period  
2       (as defined in subsection (b)(3)(D)) exceeds the  
3       amount determined under clause (iii) or (iv) para-  
4       graph (1)(A); and

5               “(II) for discharges occurring during any subse-  
6       quent cost reporting period (or portion thereof), 50  
7       percent of the amount by which the hospital's target  
8       amount for the cost reporting period (as defined in  
9       subsection (b)(3)(D)) exceeds the amount deter-  
10      mined under clause (iii) or (iv) of paragraph  
11      (1)(A).”.

12              (2) EFFECTIVE DATE.—The amendments made  
13      by paragraph (1) shall be effective as if included in  
14      the amendment made by section 6003(f) of OBRA-  
15      1989.

16      (b) PERMITTING HOSPITALS TO DECLINE RECLASSI-  
17      FICATION.—If any hospital fails to qualify as a medicare-  
18      dependent, small rural hospital under section  
19      1886(d)(5)(G)(i) of the Social Security Act as a result of  
20      a decision by the Medicare Geographic Classification Re-  
21      view Board under section 1886(d)(10) of such Act to re-  
22      classify the hospital as being located in an urban area for  
23      fiscal year 1993 or fiscal year 1994 the Secretary of  
24      Health and Human Services shall—

1 (1) notify such hospital of such failure to qual-  
2 ify,

3 (2) provide an opportunity for such hospital to  
4 decline such reclassification, and

5 (3) if the hospital declines such reclassification,  
6 administer the Social Security Act (other than sec-  
7 tion 1886(d)(8)(D)) for such fiscal year as if the de-  
8 cision by the Review Board had not occurred.

9 (c) REQUIRING LUMP-SUM RETROACTIVE PAY-  
10 MENT.—

11 (1) IN GENERAL.—In the case of a hospital  
12 treated as a medicare-dependent, small rural hos-  
13 pital under section 1886(d)(5)(G) of the Social Se-  
14 curity Act, the Secretary of Health and Human  
15 Services shall make a lump-sum payment to the hos-  
16 pital equal to the difference between—

17 (A) the aggregate payment made to the  
18 hospital under section 1886 of such Act (ex-  
19 cluding outlier payments under subsection  
20 (d)(5)(A) of such section) during the period of  
21 applicability described in paragraph (2), and

22 (B) the aggregate payment that would  
23 have been made to the hospital under such sec-  
24 tion if, during the period of applicability, sec-

1           tion 1886(d)(5)(G) of such Act had been ap-  
2           plied as if—

3                   (i) the reference in clause (i) to  
4                   “March 31, 1993,” had been deemed a ref-  
5                   erence to “January 1, 1995,”; and

6                   (ii) the amendments made by sub-  
7                   section (a) had been in effect.

8           (2) PERIOD OF APPLICABILITY.—In paragraph  
9           (1), the “period of applicability” is, with respect to  
10          a hospital, the period that begins on the first day of  
11          the hospital’s first 12-month cost reporting period  
12          that begins after April 1, 1992, and ends on the  
13          date of the enactment of this Act.

14 **SEC. 7105. ELIMINATION OF RETURN ON EQUITY FOR PRO-**  
15 **PRIETARY SKILLED NURSING FACILITIES.**

16          (a) REPEAL OF REQUIREMENT FOR RETURN ON EQ-  
17          UNITY.—(1) Section 1861(v)(1)(B) (42 U.S.C.  
18          1395x(v)(1)(B)) is amended to read as follows:

19               “(B) In the case of extended care services, the regula-  
20          tions under subparagraph (A) shall not include provision  
21          for specific recognition of a return on equity capital.”.

22          (2) Section 1878(f)(2) (42 U.S.C. 1395oo(f)(2)) is  
23          amended by striking “the rate of return on equity capital  
24          established by regulation pursuant to section  
25          1861(v)(1)(B) and in effect at the time” and inserting

1 “the average of the rates of interest on obligations issued  
2 for purchase by the Federal Hospital Insurance Trust  
3 Fund for each of the months any part of which is included  
4 in the cost reporting period in which”.

5 (3) Section 1881(b)(2)(C) (42 U.S.C.  
6 1395rr(b)(2)(C)) is amended by striking all that follows  
7 “capital” up to the period.

8 (b) EFFECTIVE DATE.—The amendments made by  
9 subsection (a) apply to portions of cost reporting periods  
10 occurring on or after October 1, 1993.

11 **SEC. 7106. EXTENSION OF 10 PERCENT REDUCTION IN PAY-**  
12 **MENTS FOR CAPITAL-RELATED COSTS OF IN-**  
13 **PATIENT HOSPITAL SERVICES.**

14 The second sentence of section 1886(g)(1)(A) (42  
15 U.S.C. 1395ww(g)(1)(A)) is amended by striking “1995”  
16 and inserting “1998”.

17 **SEC. 7107. SKILLED NURSING FACILITY COST LIMITS.**

18 (a) SKILLED NURSING FACILITY COST LIMITS.—

19 (1) IN GENERAL.—Section 1888(a) (42 U.S.C.  
20 1395yy(a)) is amended by striking “112 percent of  
21 the mean” and inserting “110 percent of the me-  
22 dian” each place it appears.

23 (2) EFFECTIVE DATE.—The amendments made  
24 by paragraph (1) shall apply to cost reporting peri-  
25 ods beginning on or after October 1, 1993.

1 (b) SKILLED NURSING FACILITY WAGE INDEX.—  
2 Not later than 1 year after the date of the enactment of  
3 this Act, the Secretary of Health and Human Services  
4 shall begin to collect data on employee compensation and  
5 paid hours of employment in skilled nursing facilities for  
6 the purpose of constructing a skilled nursing facility wage  
7 index adjustment to the routine service cost limits re-  
8 quired under section 1888(a) of the Social Security Act.

9 (c) PROPAC REPORT.—The Prospective Payment  
10 Assessment Commission shall, by March 31, 1994, study  
11 and report to the Congress on the impact of applying the  
12 routine per diem cost limits for skilled nursing facilities  
13 on a regional basis.

14 **SEC. 7108. PAYMENTS FOR HOSPICE CARE.**

15 Section 1814(i)(1)(C) (42 U.S.C. 1395f(i)(1)(C)) is  
16 amended—

17 (1) in clause (ii), by striking “during a subse-  
18 quent fiscal year” and inserting “during fiscal years  
19 1991, 1992, and 1993 (and the 3 succeeding  
20 months)”; and

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

23 “(iii) With respect to routine home care and other  
24 services included in hospice care furnished during calendar  
25 years 1994, 1995, 1996, 1997, and 1998, the payment

1 rates for such care and services shall be the payment rates  
 2 in effect under this subparagraph during the previous cal-  
 3 endar year increased by the market basket percentage in-  
 4 crease (as so defined) otherwise applicable to discharges  
 5 occurring in the calendar year, reduced by 1 percentage  
 6 point.”.

7 **PART II—PROVISIONS RELATING TO PART B**

8 **Subpart A—Physicians’ Services**

9 **SEC. 7201. REDUCTION IN DEFAULT UPDATE FOR CONVER-**  
 10 **SION FACTOR FOR 1994.**

11 Section 1848(d)(3)(A) (42 U.S.C. 1395w-  
 12 4(d)(3)(A)) is amended—

13 (1) in clause (i), by striking “clause (iii)” and  
 14 inserting “clauses (iii) and (iv)”, and

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

17 “(iv) ADJUSTMENT IN PERCENTAGE  
 18 INCREASE FOR 1994.—In applying clause  
 19 (i) for services (other than primary care  
 20 services) furnished in 1994, the percentage  
 21 increase in the appropriate update index  
 22 shall be reduced by—

23 “(I) 8 percentage points for sur-  
 24 gical services (as defined for purposes  
 25 of subsection (j)(1)), and

1                   “(II) 4.4 percentage points for  
2                   other services.”.

3 **SEC. 7202. REDUCTION IN PERFORMANCE STANDARD RATE**  
4                   **OF INCREASE AND INCREASE IN MAXIMUM**  
5                   **REDUCTION PERMITTED IN DEFAULT UP-**  
6                   **DATE AND CLASSIFICATION OF PRIMARY**  
7                   **CARE SERVICES AS A SEPARATE CATEGORY**  
8                   **OF SERVICES.**

9           (a) REDUCTION IN PERFORMANCE STANDARD FAC-  
10 TOR.—Section 1848(f)(2)(B) (42 U.S.C. 1395w-  
11 4(f)(2)(B)) is amended to read as follows:

12                   “(B) PERFORMANCE STANDARD FAC-  
13                   TOR.—For purposes of subparagraph (A)—

14                   “(i) IN GENERAL.—Except as pro-  
15                   vided in clause (ii), the performance stand-  
16                   ard factor—

17                   “(I) for 1993 is 2 percentage  
18                   points,

19                   “(II) for 1994 is 3½ percentage  
20                   points, and

21                   “(III) for each succeeding year is  
22                   4 percentage points.

23                   “(ii) PRIMARY CARE SERVICES.—The  
24                   performance standard factor for primary

1 care services (as defined in section  
2 1842(i)(4)) is 0 percentage points.”.

3 (b) INCREASE IN MAXIMUM REDUCTION PERMITTED  
4 IN DEFAULT UPDATE.—Section 1848(d)(3)(B)(ii) (42  
5 U.S.C. 1395w-4(d)(3)(B)(ii)) is amended—

6 (1) in subclause (II), by striking “or 1995”,  
7 and

8 (2) in subclause (III), by striking “3” and in-  
9 serting “5”.

10 (c) CLASSIFICATION OF PRIMARY CARE SERVICES AS  
11 SEPARATE CATEGORY OF SERVICES.—

12 (1) IN GENERAL.—Section 1848(j)(1) (42  
13 U.S.C. 1395w-4(j)(1)) is amended by inserting “,  
14 primary care services (as defined in section  
15 1842(i)(4)),” after “Secretary”.

16 (2) EFFECTIVE DATE.—The amendment made  
17 by paragraph (1) shall apply—

18 (A) to volume performance standard rates  
19 of increase established under section 1848(f) of  
20 the Social Security Act for fiscal years begin-  
21 ning on or after October 1, 1993, and

22 (B) to updates in the conversion factors  
23 for physicians’ services established under sec-  
24 tion 1848(d) of such Act for physicians’ serv-

1           ices to be furnished in calendar years beginning  
2           after 1995.

3 **SEC. 7203. PHASED-IN REDUCTION IN PRACTICE EXPENSE**

4                   **RELATIVE VALUE UNITS FOR CERTAIN SERV-**  
5                   **ICES.**

6           (a) IN GENERAL.—Section 1848(c)(2) (42 U.S.C.  
7 1395w-4(c)(2)) is amended by adding at the end the fol-  
8 lowing new subparagraph:

9                   “(E) REDUCTION IN PRACTICE EXPENSE  
10                   RELATIVE VALUE UNITS FOR CERTAIN SERV-  
11                   ICES.—

12                   “(i) IN GENERAL.—Subject to clause  
13                   (ii), the Secretary shall reduce the practice  
14                   expense relative value units applied to serv-  
15                   ices described in clause (iii) furnished in—

16                   “(I) 1994, by 25 percent of the  
17                   number by which the number of prac-  
18                   tice expense relative value units (de-  
19                   termined for 1994 without regard to  
20                   this subparagraph) exceeds the num-  
21                   ber of work relative value units deter-  
22                   mined for 1994,

23                   “(II) 1995, by an additional 25  
24                   percent of such excess, and

1                   “(III) 1996, by an additional 25  
2                   percent of such excess.

3                   “(ii) FLOOR ON REDUCTIONS.—The  
4                   practice expense relative value units for a  
5                   physician’s service shall not be reduced  
6                   under this subparagraph to a number less  
7                   than 110 percent of the number of work  
8                   relative value units.

9                   “(iii) SERVICES COVERED.—For pur-  
10                  poses of clause (i), the services described in  
11                  this clause are physicians’ services that are  
12                  not described in clause (iv) and for  
13                  which—

14                  “(I) there are work relative value  
15                  units, and

16                  “(II) the number of practice ex-  
17                  pense relative value units (determined  
18                  for 1994) exceeds 110 percent of the  
19                  number of work relative value units  
20                  (determined for such year).

21                  “(iv) EXCLUDED SERVICES.—For  
22                  purposes of clause (iii), the services de-  
23                  scribed in this clause are services which  
24                  the Secretary determines at least 75 per-

1 cent of which are provided under this title  
2 in an office setting.”.

3 (b) DEVELOPMENT OF RESOURCE-BASED METH-  
4 ODOLOGY FOR PRACTICE EXPENSES.—

5 (1) The Secretary of Health and Human Serv-  
6 ices shall develop a methodology for implementing in  
7 1997 a resource-based system for determining prac-  
8 tice expense relative value units for each physician’s  
9 service.

10 (2) The Secretary shall transmit a report by  
11 June 30, 1996, on the methodology developed under  
12 paragraph (1) to the Committee on Ways and Means  
13 and the Committee on Energy and Commerce of the  
14 House of Representatives and the Committee on Fi-  
15 nance of the Senate. The report shall include a pres-  
16 entation of data utilized in developing the methodol-  
17 ogy and an explanation of the methodology.

18 **SEC. 7204. LIMITATION ON PAYMENT FOR THE ANESTHESIA**

19 **CARE TEAM.**

20 (a) LIMIT ON PAYMENT TO A PHYSICIAN FOR MEDI-  
21 CAL DIRECTION.—

22 (1) IN GENERAL.—Section 1848(a) (42 U.S.C.  
23 1395w-4(a)) is amended by adding at the end the  
24 following new paragraph:

1           “(5) SPECIAL RULE FOR MEDICAL DIREC-  
2           TION.—

3           “(A) IN GENERAL.—With respect to physi-  
4           cians’ services furnished on or after January 1,  
5           1994, and consisting of medical direction of 2,  
6           3, or 4 concurrent anesthesia cases, the fee  
7           schedule amount to be applied shall not exceed  
8           one-half of the amount described in subpara-  
9           graph (B).

10           “(B) AMOUNT.—The amount described in  
11           this subparagraph, for a physician’s medical di-  
12           rection of the performance of anesthesia serv-  
13           ices, is the following percentage of the fee  
14           schedule amount otherwise applicable under this  
15           section if the anesthesia services were person-  
16           ally performed by the physician alone:

17                   “(i) For services furnished during  
18                   1994, 120 percent.

19                   “(ii) For services furnished during  
20                   1995, 115 percent.

21                   “(iii) For services furnished during  
22                   1996, 110 percent.

23                   “(iv) For services furnished during  
24                   1997, 105 percent.

1                   “(v) For services furnished after  
2                   1997, 100 percent.”.

3                   (2) ELIMINATION OF REDUCTION FOR MEDICAL  
4                   DIRECTION OF MULTIPLE NURSE ANESTHETISTS.—  
5                   Section 1842(b) (42 U.S.C. 1395u(b)) is amended  
6                   by striking paragraph (13).

7                   (b) PAYMENT TO A CERTIFIED REGISTERED NURSE  
8                   ANESTHETIST FOR MEDICALLY DIRECTED SERVICES.—  
9                   Subparagraph (B) of section 1833(l)(4) (42 U.S.C.  
10                  1395l(l)(4)) is amended—

11                  (1) in clause (i), by inserting “and before Janu-  
12                  ary 1, 1994,” after “1991,”;

13                  (2) in clause (ii)—

14                         (A) by adding “and” at the end of  
15                         subclause (II),

16                         (B) by striking the comma at the end of  
17                         subclause (III) and inserting a period, and

18                         (C) by striking subclauses (IV) through  
19                         (VII); and

20                  (3) by adding at the end the following new  
21                  clause:

22                  “(iii) In the case of services of a certified registered  
23                  nurse anesthetist who is medically directed or medically  
24                  supervised by a physician which are furnished on or after  
25                  January 1, 1994, the fee schedule amount shall be 50 per-

1 cent of the amount described in section 1848(a)(5)(B)  
2 with respect to the physician.”.

3 **SEC. 7205. SEPARATE PAYMENT FOR INTERPRETATION OF**  
4 **ELECTROCARDIOGRAMS.**

5 (a) IN GENERAL.—Paragraph (3) of section 1848(b)  
6 (42 U.S.C. 1395w-4(b)) is amended to read as follows:

7 “(3) TREATMENT OF INTERPRETATION OF  
8 ELECTROCARDIOGRAMS.—The Secretary—

9 “(A) shall make separate payment under  
10 this section for the interpretation of electro-  
11 cardiograms performed or ordered to be per-  
12 formed as part of or in conjunction with a visit  
13 to or a consultation with a physician, and

14 “(B) shall adjust the relative values estab-  
15 lished for visits and consultations under sub-  
16 section (c) so as not to include relative value  
17 units for interpretations of electrocardiograms  
18 in the relative value for visits and consulta-  
19 tions.”.

20 (b) ASSURING BUDGET NEUTRALITY.—Section  
21 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)), as amended by  
22 section 7203(a), is further amended by adding at the end  
23 the following new subparagraph:

24 “(F) BUDGET NEUTRALITY ADJUST-  
25 MENTS.—The Secretary—

1           “(i) shall reduce the relative values  
2 for all services (other than anesthesia serv-  
3 ices) established under this paragraph  
4 (and, in the case of anesthesia services, the  
5 conversion factor established by the Sec-  
6 retary for such services) by such percent-  
7 age as the Secretary determines to be nec-  
8 essary so that, beginning in 1996, the  
9 amendment made by section 7205(a) of  
10 the Omnibus Budget Reconciliation Act of  
11 1993 would not result in expenditures  
12 under this section that exceed the amount  
13 of such expenditures that would have been  
14 made if such amendment had not been  
15 made, and

16           “(ii) shall reduce the amounts deter-  
17 mined under subsection (a)(2)(B)(ii)(I) by  
18 such percentage as the Secretary deter-  
19 mines to be required to assure that, taking  
20 into account the reductions made under  
21 clause (i), the amendment made by section  
22 7205(a) of the Omnibus Budget Reconcili-  
23 ation Act of 1993 would not result in ex-  
24 penditures under this section in 1994 that  
25 exceed the amount of such expenditures



1 (b) BUDGET NEUTRALITY ADJUSTMENT.—Notwith-  
2 standing any other provision of law, the Secretary of  
3 Health and Human Services shall reduce the following val-  
4 ues and amounts for 1994 (to be applied for that year  
5 and subsequent years) by such uniform percentage as the  
6 Secretary determines to be required to assure that the  
7 amendments made by subsection (a) will not result in ex-  
8 penditures under part B of title XVIII of the Social Secu-  
9 rity Act in 1994 that exceed the amount of such expendi-  
10 tures that would have been made if such amendments had  
11 not been made:

12 (1) The relative values established under section  
13 1848(c) of such Act for services (other than anesthe-  
14 sia services) and, in the case of anesthesia services,  
15 the conversion factor established under section 1848  
16 of such Act for such services.

17 (2) The amounts determined under section  
18 1848(a)(2)(B)(ii)(I) of such Act.

19 (3) The prevailing charges or fee schedule  
20 amounts to be applied under such part for services  
21 of a health care practitioner (as defined in section  
22 1842(b)(4)(F)(ii)(I) of such Act, as in effect before  
23 the date of the enactment of this Act).

1 (c) CONFORMING AMENDMENTS.—Section 1848 (42  
2 U.S.C. 1395w-4), as amended by section 7205(c), is  
3 amended—

4 (1) in subsection (a)(2)(B)(ii)(I), by inserting  
5 “and under section 7206(b) of the Omnibus Budget  
6 Reconciliation Act of 1993” after “subsection  
7 (c)(2)(F)(ii)”;

8 (2) in subsection (c)(2)(A)(i), by inserting “and  
9 section 7206(b) of the Omnibus Budget Reconcili-  
10 ation Act of 1993” after “under subparagraph  
11 (F)(i)”; and

12 (3) in subsection (i)(1)(B), by inserting “and  
13 section 7206(b) of the Omnibus Budget Reconcili-  
14 ation Act of 1993” after “under subsection  
15 (c)(2)(F)”.

16 (d) EFFECTIVE DATE.—The amendments made by  
17 subsection (a) shall apply to services furnished on or after  
18 January 1, 1994.

19 **SEC. 7207. EXTRA-BILLING LIMITS.**

20 (a) ENFORCEMENT AND UNIFORM APPLICATION.—

21 (1) ENFORCEMENT.—Paragraph (1) of section  
22 1848(g) (42 U.S.C. 1395w-4(g)) is amended to read  
23 as follows:

24 “(1) LIMITATION ON ACTUAL CHARGES.—

1           “(A) IN GENERAL.—In the case of a  
2 nonparticipating physician or nonparticipating  
3 supplier or other person (as defined in section  
4 1842(i)(2)) who does not accept payment on an  
5 assignment-related basis for a physician’s serv-  
6 ice furnished with respect to an individual en-  
7 rolled under this part, the following rules apply:

8           “(i) APPLICATION OF LIMITING  
9 CHARGE.—No person may bill or collect an  
10 actual charge for the service in excess of  
11 the limiting charge described in paragraph  
12 (2) for such service.

13           “(ii) NO LIABILITY FOR EXCESS  
14 CHARGES.—No person is liable for pay-  
15 ment of any amounts billed for the service  
16 in excess of such limiting charge.

17           “(iii) CORRECTION OF EXCESS  
18 CHARGES.—If such a physician, supplier,  
19 or other person bills, but does not collect,  
20 an actual charge for a service in violation  
21 of clause (i), the physician, supplier, or  
22 other person shall reduce on a timely basis  
23 the actual charge billed for the service to  
24 an amount not to exceed the limiting  
25 charge for the service.

1           “(iv) REFUND OF EXCESS COLLEC-  
2           TIONS.—If such a physician, supplier, or  
3           other person collects an actual charge for  
4           a service in violation of clause (i), the phy-  
5           sician, supplier, or other person shall pro-  
6           vide on a timely basis a refund to the indi-  
7           vidual charged in the amount by which the  
8           amount collected exceeded the limiting  
9           charge for the service. The amount of such  
10          a refund shall be reduced to the extent the  
11          individual has an outstanding balance owed  
12          to the physician.

13          “(B) SANCTIONS.—If a physician, supplier,  
14          or other person—

15                 “(i) knowingly and willfully bills or  
16                 collects for services in violation of subpara-  
17                 graph (A)(i) on a repeated basis, or

18                 “(ii) fails to comply with clause (iii)  
19                 or (iv) of subparagraph (A) on a timely  
20                 basis,

21          the Secretary may apply sanctions against the  
22          physician, supplier, or other person in accord-  
23          ance with paragraph (2) of section 1842(j). In  
24          applying this subparagraph, paragraph (4) of  
25          such section applies in the same manner as

1 such paragraph applies to such section and any  
2 reference in such section to a physician is  
3 deemed also to include a reference to a supplier  
4 or other person under this subparagraph.

5 “(C) TIMELY BASIS.—For purposes of this  
6 paragraph, a reduction or refund under clauses  
7 (iii) and (iv) of subparagraph (A) shall be treat-  
8 ed as done on a timely basis if the reduction or  
9 refund is made not later than 30 days after the  
10 date the physician, supplier, or other person is  
11 notified by the carrier under this part of such  
12 violation and of the requirements of subpara-  
13 graph (A).”.

14 (2) UNIFORM APPLICATION OF EXTRA-BILLING  
15 LIMITS TO PHYSICIANS’ SERVICES.—

16 (A) IN GENERAL.—Section 1848(g)(2)(C)  
17 (42 U.S.C. 1395w-4(g)(2)(C)) is amended by  
18 inserting “or for nonparticipating suppliers or  
19 other persons” after “nonparticipating physi-  
20 cians”.

21 (B) CONFORMING DEFINITION.—Section  
22 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amend-  
23 ed—

24 (i) by striking “, and the term” and  
25 inserting “; the term”, and

1           (ii) by inserting before the period at  
2           the end the following: “; and the term  
3           ‘nonparticipating supplier or other person’  
4           means a supplier or other person (exclud-  
5           ing a provider of services) that is not a  
6           participating physician or supplier (as de-  
7           fined in subsection (h)(1))”.

8           (3) ADDITIONAL CONFORMING AMENDMENTS.—

9           Section 1848 (42 U.S.C. 1395w-4) is amended—

10           (A) in subsection (a)(3)—

11           (i) by inserting “AND SUPPLIERS”  
12           after “PHYSICIANS” in the heading,

13           (ii) by inserting “or a  
14           nonparticipating supplier or other person”  
15           after “nonparticipating physician”, and

16           (iii) by adding at the end the follow-  
17           ing: “In the case of physicians’ services  
18           (including services which the Secretary ex-  
19           cludes pursuant to subsection (j)(3)) of a  
20           nonparticipating physician, supplier, or  
21           other person for which payment is made  
22           under this part on a basis other than the  
23           fee schedule amount, the payment shall be  
24           based on 95 percent of the payment basis

1 for such services furnished by a participat-  
2 ing physician, supplier, or other person.”;

3 (B) in subsection (g)(1)(A), as amended by  
4 subsection (a), in the matter before clause (i),  
5 by inserting “(including services which the Sec-  
6 retary excludes pursuant to subsection (j)(3))”  
7 after “a physician’s service”;

8 (C) in subsection (g)(2)(D), by inserting  
9 “(or, if payment under this part is made on a  
10 basis other than the fee schedule under this sec-  
11 tion, 95 percent of the other payment basis)”  
12 after “subsection (a)”;

13 (D) in subsection (g)(3)(B)—

14 (i) by inserting after the first sentence  
15 the following: “No person is liable for pay-  
16 ment of any amounts billed for such a  
17 service in violation of the preceding sen-  
18 tence.”, and

19 (ii) in the last sentence, by striking  
20 “previous sentence” and inserting “first  
21 sentence”;

22 (E) in subsection (h)—

23 (i) by inserting “or nonparticipating  
24 supplier or other person furnishing physi-  
25 cians’ services (as defined in section

1 1848(j)(3))” after “physician” the first  
2 place it appears,

3 (ii) by inserting “, supplier, or other  
4 person” after “physician” the second place  
5 it appears, and

6 (iii) by inserting “, suppliers, and  
7 other persons” after “physicians” the sec-  
8 ond place it appears; and

9 (F) in subsection (j)(3), by inserting “, ex-  
10 cept for purposes of subsections (a)(3), (g), and  
11 (h),” after “tests and”.

12 (b) CLARIFICATION OF MANDATORY ASSIGNMENT  
13 RULES FOR CERTAIN PRACTITIONERS.—

14 (1) IN GENERAL.—Section 1842(b) (42 U.S.C.  
15 1395u(b)) is amended by adding at the end the fol-  
16 lowing new paragraph:

17 “(19)(A) Payment for any service furnished by a  
18 practitioner described in subparagraph (C) and for which  
19 payment may be made under this part on a reasonable  
20 charge or fee schedule basis may only be made under this  
21 part on an assignment-related basis.

22 “(B) A practitioner described in subparagraph (C) or  
23 other person may not bill (or collect any amount from)  
24 the individual or another person for any service described  
25 in subparagraph (A), except for deductible and coinsur-

1   ance amounts applicable under this part. No person is lia-  
2   ble for payment of any amounts billed for such a service  
3   in violation of the previous sentence. If a practitioner or  
4   other person knowingly and willfully bills (or collects an  
5   amount) for such a service in violation of such sentence,  
6   the Secretary may apply sanctions against the practitioner  
7   or other person in the same manner as the Secretary may  
8   apply sanctions against a physician in accordance with  
9   subsection (j)(2) in the same manner as such section ap-  
10  plies with respect to a physician. Paragraph (4) of sub-  
11  section (j) shall apply in this subparagraph in the same  
12  manner as such paragraph applies to such section.

13       “(C) A practitioner described in this subparagraph  
14  is any of the following:

15           “(i) A physician assistant, nurse practitioner, or  
16   clinical nurse specialist (as defined in section  
17   1861(aa)(5)).

18           “(ii) A certified registered nurse anesthetist (as  
19   defined in section 1861(bb)(2)).

20           “(iii) A certified nurse-midwife (as defined in  
21   section 1861(gg)(2)).

22           “(iv) A clinical social worker (as defined in sec-  
23   tion 1861(hh)(1)).

24           “(v) A clinical psychologist (as defined by the  
25   Secretary for purposes of section 1861(ii)).

1       “(D) For purposes of this paragraph, a service fur-  
2 nished by a practitioner described in subparagraph (C) in-  
3 cludes any services and supplies furnished as incident to  
4 the service as would otherwise be covered under this part  
5 if furnished by a physician or as incident to a physician’s  
6 service.”.

7           (2) CONFORMING AMENDMENTS.—

8           (A) Section 1833 (42 U.S.C. 1395l) is  
9 amended—

10           (i) in subsection (l)(5), by striking  
11 subparagraph (B) and redesignating sub-  
12 paragraph (C) as subparagraph (B);

13           (ii) by striking subsection (p); and

14           (iii) in subsection (r), by striking  
15 paragraph (3) and redesignating para-  
16 graph (4) as paragraph (3).

17           (B) Section 1842(b)(12) (42 U.S.C.  
18 1395u(b)(12)) is amended by striking subpara-  
19 graph (C).

20           (c) INFORMATION ON EXTRA-BILLING LIMITS.—

21           (1) PART OF EXPLANATION OF MEDICARE BEN-  
22 EFITS.—Section 1842(h)(7) (42 U.S.C.  
23 1395u(h)(7)) is amended—

24           (A) by striking “and” at the end of sub-  
25 paragraph (B),

1 (B) in subparagraph (C), by striking “shall  
2 include”,

3 (C) in subparagraph (C), by striking the  
4 period at the end and inserting “, and”, and

5 (D) by adding at the end the following new  
6 subparagraph:

7 “(D) in the case of services for which the billed  
8 amount exceeds the limiting charge imposed under  
9 section 1848(g), information regarding such applica-  
10 ble limiting charge (including information concern-  
11 ing the right to a refund under section  
12 1848(g)(1)(A)(iv)).”.

13 (2) DETERMINATIONS BY CARRIERS.—Subpara-  
14 graph (G) of section 1842(b)(3) (42 U.S.C.  
15 1395u(b)(3)) is amended to read as follows:

16 “(G) will, for a service that is furnished with  
17 respect to an individual enrolled under this part,  
18 that is not paid on an assignment-related basis, and  
19 that is subject to a limiting charge under section  
20 1848(g)—

21 “(i) determine, prior to making payment,  
22 whether the amount billed for such service ex-  
23 ceeds the limiting charge applicable under sec-  
24 tion 1848(g)(2);

1           “(ii) notify the physician, supplier, or other  
2           person periodically (but not less often than once  
3           every 30 days) of determinations that amounts  
4           billed exceeded such applicable limiting charges;  
5           and

6           “(iii) provide for prompt response to in-  
7           quiries of physicians, suppliers, and other per-  
8           sons concerning the accuracy of such limiting  
9           charges for their services;”.

10          (d) REPORT ON CHARGES IN EXCESS OF LIMITING  
11          CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w-  
12          4(g)(6)(B)) is amended by inserting “the extent to which  
13          actual charges exceed limiting charges, the number and  
14          types of services involved, and the average amount of ex-  
15          cess charges and” after “report to the Congress”.

16          (e) MISCELLANEOUS AND TECHNICAL AMEND-  
17          MENTS.—Section 1833 (42 U.S.C. 1395l) is amended—

18                 (1) in subsection (a)(1)—

19                         (A) by striking “and” before “(N)”;

20                         (B) with respect to the matter inserted by  
21                         section 4155(b)(2)(B) of OBRA-1990—

22                                 (i) by striking “(M)” and inserting “,  
23                                 and (O)”;

1 (ii) by transferring and inserting it  
2 (as amended) immediately before the semi-  
3 colon at the end;

4 (C) by striking “and” before “(O)”, and

5 (D) by inserting before the semicolon at  
6 the end the following: “, and (P) with respect  
7 to services described in clauses (i), (ii) and (iv)  
8 of section 1861(s)(2)(K), the amounts paid are  
9 subject to the provisions of section  
10 1842(b)(12)”; and

11 (2) in subsection (h)(5)(D)—

12 (A) by striking “paragraphs (2) and (3)”  
13 and by inserting “paragraph (2)”, and

14 (B) by adding at the end the following:  
15 “Paragraph (4) of such section shall apply in  
16 this subparagraph in the same manner as such  
17 paragraph applies to such section.”.

18 (f) EFFECTIVE DATES.—

19 (1) ENFORCEMENT AND UNIFORM APPLICA-  
20 TION; MISCELLANEOUS AND TECHNICAL AMEND-  
21 MENTS.—The amendments made by subsections (a)  
22 and (e) shall apply to services furnished on or after  
23 the date of the enactment of this Act; except that  
24 the amendments made by subsection (a) shall not

1 apply to services of a nonparticipating supplier or  
2 other person furnished before January 1, 1994.

3 (2) PRACTITIONERS.—The amendments made  
4 by subsection (b) shall apply to services furnished on  
5 or after January 1, 1994.

6 (3) EOMBS.—The amendments made by sub-  
7 section (c)(1) shall apply to explanations of benefits  
8 provided on or after January 1, 1994.

9 (4) CARRIER DETERMINATIONS.—The amend-  
10 ments made by subsection (c)(2) shall apply to con-  
11 tracts as of January 1, 1994.

12 (5) REPORT.—The amendment made by sub-  
13 section (d) shall apply to reports for years beginning  
14 after 1993.

15 **Subpart B—Outpatient Hospital Services and**  
16 **Ambulatory Surgical Services**

17 **SEC. 7221. EXTENSION OF 10 PERCENT REDUCTION IN PAY-**  
18 **MENTS FOR CAPITAL-RELATED COSTS OF**  
19 **OUTPATIENT HOSPITAL SERVICES.**

20 Section 1861(v)(1)(S)(ii)(I) (42 U.S.C.  
21 1395x(v)(1)(S)(ii)(I)) is amended by striking “fiscal year  
22 1992, 1993, 1994, or 1995” and inserting “fiscal years  
23 1992 through 1998”.

1 **SEC. 7222. EXTENSION OF REDUCTION IN PAYMENTS FOR**  
 2 **OTHER COSTS OF OUTPATIENT HOSPITAL**  
 3 **SERVICES.**

4 Section 1861(v)(1)(S)(ii)(II) (42 U.S.C.  
 5 1395x(v)(1)(S)(ii)(II)) is amended by striking “, 1992,  
 6 1993, 1994, or 1995” and inserting “through 1998”.

7 **SEC. 7223. CHANGES TO PAYMENT FORMULAS FOR CER-**  
 8 **TAIN OUTPATIENT HOSPITAL SERVICES.**

9 (a) **AMBULATORY SURGICAL CENTER PROCE-**  
 10 **DURES.**—Section 1833(i)(3) (42 U.S.C. 1395l(i)(3)) is  
 11 amended—

12 (1) in subparagraph (A), by striking clause (ii)  
 13 and inserting the following:

14 “(ii) the lesser of—

15 “(I) the aggregate blended  
 16 amount, less the amount a provider  
 17 may charge as described in clause (ii)  
 18 of section 1866(a)(2)(A), or

19 “(II) 80 percent of the aggregate  
 20 blended amount.”;

21 (2) in subparagraph (B)—

22 (A) in clause (i), by striking “The blend  
 23 amount” and inserting “For purposes of sub-  
 24 paragraph (A), the aggregate blended amount”,

25 (B) in subclause (I) of clause (i), by strik-  
 26 ing “the amount described in subparagraph

1 (A)(i)” and inserting “the lesser of the reason-  
2 able cost of such services (as determined under  
3 section 1861(v)) or the customary charges with  
4 respect to such services”, and

5 (C) in subclause (II) of clause (i), by strik-  
6 ing “of 80 percent”.

7 (b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCE-  
8 DURES.—Section 1833(n) (42 U.S.C. 1395l(n)) is amend-  
9 ed—

10 (1) in paragraph (1), by redesignating subpara-  
11 graph (B) as paragraph (2) and by redesignating  
12 clauses (i) and (ii) of such paragraph (as so redesign-  
13 ated) and subclauses (I) and (II) of such clauses  
14 as subparagraphs (A) and (B) and clauses (i) and  
15 (ii), respectively;

16 (2) in paragraph (1), by striking “(A) The ag-  
17 gregate amount” and inserting “The aggregate  
18 amount”;

19 (3) in paragraph (1), by redesignating clause (i)  
20 as subparagraph (A) and by striking clause (ii) and  
21 inserting the following:

22 “(B) the lesser of—

23 “(i) the aggregate blended amount,  
24 less the amount a provider may charge as

1 described in clause (ii) of section  
2 1866(a)(2)(A), or

3 “(ii) 80 percent of the aggregate  
4 blended amount.”; and

5 (4) in paragraph (2) (as so redesignated)—

6 (A) in subparagraph (A) (as so redesignated), by striking “The blend amount” and inserting “The aggregate blended amount”,

9 (B) in subparagraph (A)(i) (as so redesignated) by striking “(as defined in clause (ii)) of the amount described in subparagraph (A)(i);” and inserting “the lesser of the reasonable cost of such services (as determined under section 1861(v)) or the customary charges with respect to such services”,

16 (C) in subparagraph (A)(iii) (as so redesignated) by striking “(as defined in clause (ii)(II))”, and

19 (D) in subparagraph (B) (as so redesignated), by striking “In this subparagraph” and inserting “For purposes of subparagraph (A)”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to portions of cost reporting peri-  
24 ods occurring on or after October 1, 1993.

1 **SEC. 7224. REDUCTION IN PAYMENTS FOR INTRAOCULAR**  
2 **LENSES.**

3 (a) PAYMENT FOR INTRAOCULAR LENS.—Section  
4 4151(c)(3) of OBRA-1990 is amended—

5 (1) by striking “center” and all that follows  
6 and inserting “center—

7 “(A) on or after the date of the enactment  
8 of this Act and on or before December 31,  
9 1993, shall be equal to \$200; and

10 “(B) on or after January 1, 1994, and on  
11 or before December 31, 1998, shall be equal to  
12 \$150.”; and

13 (2) in the heading, by striking “2-YEAR FREEZE  
14 IN ALLOWANCE” and inserting “ALLOWANCE”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) PAYMENT AMOUNTS FOR SERVICES FUR-  
17 NISHED IN AMBULATORY SURGICAL CENTERS.—

18 (A)(i) Section 1833(i)(2)(A)(i) (42 U.S.C.  
19 1395l(i)(2)(A)(i)) is amended by striking the comma  
20 at the end and inserting the following: “, as deter-  
21 mined in accordance with a survey (based upon a  
22 representative sample of procedures and facilities)  
23 taken not later than January 1, 1995, and every 5  
24 years thereafter, of the actual audited costs incurred  
25 by such centers in providing such services,”.

1           (ii) The second sentence of section 1833(i)(1)  
2           (42 U.S.C. 1395l(i)(1)) is amended by striking the  
3           period and inserting the following: “, in consultation  
4           with appropriate trade and professional organiza-  
5           tions.”.

6           (B) Section 4151(c)(3) of OBRA–1990, as  
7           amended in subsection (a), is amended by striking  
8           “for the insertion of an intraocular lens” and insert-  
9           ing “for an intraocular lens inserted”.

10           (2) ADJUSTMENTS TO PAYMENT AMOUNTS FOR  
11           NEW TECHNOLOGY INTRAOCULAR LENSES.—(A)  
12           Notwithstanding section 4151(c)(3) of OBRA–1990  
13           (as amended by subsection (a)), the Secretary of  
14           Health and Human Services (in this paragraph re-  
15           ferred to as the “Secretary”) shall, not later than 1  
16           year after the date of the enactment of this Act, de-  
17           velop and implement a process under which inter-  
18           ested parties may request review by the Secretary of  
19           the appropriateness of the reimbursement amount  
20           provided under section 1833(i)(2)(A)(iii) of the So-  
21           cial Security Act with respect to a class of new tech-  
22           nology intraocular lenses. For purposes of the pre-  
23           ceding sentence, an intraocular lens may not be  
24           treated as a new technology intraocular lens unless

1 it has been approved by the Food and Drug Admin-  
2 istration.

3 (B) In determining whether to provide an ad-  
4 justment of payment with respect to a particular  
5 lens under subparagraph (A), the Secretary shall  
6 take into account whether use of the lens is likely to  
7 result in reduced risk of intraoperative or post-  
8 operative complication or trauma, accelerated post-  
9 operative recovery, reduced induced astigmatism, im-  
10 proved postoperative visual acuity, more stable post-  
11 operative vision, or other comparable clinical advan-  
12 tages.

13 (C) The Secretary shall publish notice in the  
14 Federal Register from time to time (but no less  
15 often than once each year) of a list of the requests  
16 that the Secretary has received for review under this  
17 subsection, and shall provide for a 30-day comment  
18 period on the lenses that are the subjects of the re-  
19 quests contained in such notice. The Secretary shall  
20 publish a notice of the determinations with respect  
21 to intraocular lenses listed in the notice within 90  
22 days after the close of the comment period.

23 (D) Any adjustment of a payment amount (or  
24 payment limit) made under this paragraph shall be-  
25 come effective not later than 30 days after the date

1 on which the notice with respect to the adjustment  
2 is published under subparagraph (C).

3 (3) BLEND AMOUNTS FOR AMBULATORY SUR-  
4 GICAL CENTER PAYMENTS.—

5 (A) IN GENERAL.—Subclauses (I) and (II)  
6 of section 1833(i)(3)(B)(ii) (42 U.S.C.  
7 1395l(i)(3)(B)(ii)) are each amended—

8 (i) by striking “for reporting” and in-  
9 serting “for portions of cost reporting”;  
10 and

11 (ii) by striking “and on or before”  
12 and inserting “and ending on or before”.

13 (B) EFFECTIVE DATE.—The amendments  
14 made by subparagraph (A) shall take effect as  
15 if included in the enactment of OBRA–1990.

16 **Subpart C—Durable Medical Equipment**

17 **SEC. 7231. REVISIONS TO PAYMENT RULES FOR DURABLE**  
18 **MEDICAL EQUIPMENT.**

19 (a) BASING NATIONAL PAYMENT LIMITS ON MEDIAN  
20 OF LOCAL PAYMENT AMOUNTS.—

21 (1) INEXPENSIVE AND ROUTINELY PURCHASED  
22 ITEMS; ITEMS REQUIRING FREQUENT AND SUBSTAN-  
23 TIAL SERVICING.—(A) Paragraphs (2)(C)(i)(II) and  
24 (3)(C)(i)(II) of section 1834(a) (42 U.S.C.  
25 1395m(a)) are each amended—

1 (i) by striking “1992” the first place it ap-  
2 pears and inserting “1992, 1993, and 1994”;  
3 and

4 (ii) by striking “1992” the second place it  
5 appears and inserting “the year”.

6 (B) Paragraphs (2)(C)(ii) and (3)(C)(ii) of sec-  
7 tion 1834(a) (42 U.S.C. 1395m(a)) are each amend-  
8 ed—

9 (i) by striking “and” at the end of  
10 subclause (I);

11 (ii) by redesignating subclause (II) as (IV);  
12 and

13 (iii) by inserting after subclause (I) the fol-  
14 lowing new subclauses:

15 “(II) for 1992 and 1993, the  
16 amount determined under this clause  
17 for the preceding year increased by  
18 the covered item update for such sub-  
19 sequent year,

20 “(III) for 1994, the local pay-  
21 ment amount determined under clause  
22 (i) for such item or device for that  
23 year, except that the national limited  
24 payment amount may not exceed 100  
25 percent of the median of all local pay-

1           ment amounts determined under such  
2           clause for such item for that year and  
3           may not be less than 85 percent of  
4           the median of all local payment  
5           amounts determined under such  
6           clause for such item or device for that  
7           year, and”.

8           (2) MISCELLANEOUS DEVICES AND ITEMS.—  
9           Section 1834(a)(8) (42 U.S.C. 1395m(a)(8)) is  
10          amended—

11           (A) in subparagraph (A)(ii)(III), by strik-  
12          ing “1992” and inserting “1992, 1993, and  
13          1994”; and

14           (B) in subparagraph (B)—

15           (i) by striking “and” at the end of  
16          clause (i),

17           (ii) by redesignating clause (ii) as (iv),  
18          and

19           (iii) by inserting after clause (i) the  
20          following new clauses:

21           “(ii) for 1992 and 1993, the amount  
22          determined under this subparagraph for  
23          the preceding year increased by the cov-  
24          ered item update for such subsequent year;

1           “(iii) for 1994, the local purchase  
2           price computed under subparagraph (A)(ii)  
3           for the item for the year, except that such  
4           national limited purchase price may not ex-  
5           ceed 100 percent of the median of all local  
6           purchase prices computed for the item  
7           under such subparagraph for the year and  
8           may not be less than 85 percent of the me-  
9           dian of all local purchase prices computed  
10          under such subparagraph for the item for  
11          the year; and”.

12           (3) OXYGEN AND OXYGEN EQUIPMENT.—Sec-  
13          tion 1834(a)(9) (42 U.S.C. 1395m(a)(9)) is amend-  
14          ed—

15           (A) in subparagraph (A)(ii)(II), by striking  
16          “1991 and 1992” and inserting “1991, 1992,  
17          1993, and 1994”; and

18           (B) in subparagraph (B)—

19           (i) by striking “and” at the end of  
20          clause (i),

21           (ii) by redesignating clause (ii) as (iv),

22          and

23           (iii) by inserting after clause (i) the  
24          following new clauses:

1           “(ii) for 1992 and 1993, the amount  
2           determined under this subparagraph for  
3           the preceding year increased by the cov-  
4           ered item update for such subsequent year;

5           “(iii) for 1994, the local monthly pay-  
6           ment rate computed under subparagraph  
7           (A)(ii) for the item for the year, except  
8           that such national limited monthly pay-  
9           ment rate may not exceed 100 percent of  
10          the median of all local monthly payment  
11          rates computed for the item under such  
12          subparagraph for the year and may not be  
13          less than 85 percent of the median of all  
14          local monthly payment rates computed for  
15          the item under such subparagraph for the  
16          year; and”.

17          (b) PAYMENT FOR PROSTHETIC DEVICES AND  
18          ORTHOTICS AND PROSTHETICS.—

19                 (1) IN GENERAL.—Section 1834(h)(2) (42  
20          U.S.C. 1395m(h)(2)) is amended—

21                         (A) in subparagraph (A)(ii)(II), by striking  
22                         “1992 or 1993” and inserting “1992, 1993, or  
23                         1994”;

24                         (B) in subparagraph (B)(ii), by striking  
25                         “each subsequent year” and inserting “1993”;

1 (C) in subparagraph (C)(iv), by striking  
2 “regional purchase price computed under sub-  
3 paragraph (B)” and inserting “national limited  
4 purchase price computed under subparagraph  
5 (E)”;

6 (D) in subparagraph (D)(ii), by striking “a  
7 subsequent year” and inserting “1993”; and

8 (E) by adding at the end the following new  
9 subparagraph:

10 “(E) COMPUTATION OF NATIONAL LIM-  
11 ITED PURCHASE PRICE.—With respect to the  
12 furnishing of a particular item in a year, the  
13 Secretary shall compute a national limited pur-  
14 chase price—

15 “(i) for 1994, equal to the local pur-  
16 chase price computed under subparagraph  
17 (A)(ii)(II) for the item for the year, except  
18 that such national limited purchase price  
19 may not exceed 100 percent of the median  
20 of all local purchase prices for the item  
21 computed under such subparagraph for the  
22 year, and may not be less than 85 percent  
23 of the median of all local purchase prices  
24 for the item computed under such subpara-  
25 graph for the year; and

1           “(ii) for each subsequent year, equal  
2           to the amount determined under this sub-  
3           paragraph for the preceding year increased  
4           by the applicable percentage increase for  
5           such subsequent year.”.

6           (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to items furnished on or after Jan-  
8 uary 1, 1994.

9 **SEC. 7232. TREATMENT OF NEBULIZERS AND ASPIRATORS.**

10          (a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C.  
11 1395m(a)(3)(A)) is amended by striking “(such as ventila-  
12 tors, aspirators, IPPB machines, and nebulizers)”.

13          (b) PAYMENT FOR ACCESSORIES RELATING TO  
14 NEBULIZERS AND ASPIRATORS.—Section 1834(a)(2)(A)  
15 (42 U.S.C. 1395m(a)) is amended—

- 16           (1) by striking “or” at the end of clause (i),  
17           (2) by adding “or” at the end of clause (ii), and  
18           (3) by inserting after clause (ii) the following  
19           new clause:

20                   “(iii) which is an accessory used in  
21                   conjunction with a nebulizer or aspirator,”.

22          (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to items furnished on or after Jan-  
24 uary 1, 1994.

1 **SEC. 7233. PAYMENT FOR SURGICAL DRESSINGS.**

2 (a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m)  
3 is amended by adding at the end the following new sub-  
4 section:

5 “(i) PAYMENT FOR SURGICAL DRESSINGS.—

6 “(1) IN GENERAL.—Payment under this sub-  
7 section for surgical dressings (described in section  
8 1861(s)(5)) shall be made in a lump sum amount  
9 for the purchase of the item in an amount equal to  
10 80 percent of the lesser of—

11 “(A) the actual charge for the item; or

12 “(B) a payment amount determined in ac-  
13 cordance with the methodology described in  
14 subparagraphs (B) and (C) of subsection (a)(2)  
15 (except that in applying such methodology, the  
16 national limited payment amount referred to in  
17 such subparagraphs shall be initially computed  
18 based on local payment amounts using average  
19 reasonable charges for the 12-month period  
20 ending December 31, 1992, increased by the  
21 covered item updates described in such sub-  
22 section for 1993 and 1994).

23 “(2) EXCEPTIONS.—Paragraph (1) shall not  
24 apply to surgical dressings that are—

25 “(A) furnished as an incident to a physi-  
26 cian’s professional service; or

1 “(B) furnished by a home health agency.”.

2 (b) CONFORMING AMENDMENT.—Section 1833(a)(1)  
3 (42 U.S.C. 1395l(a)(1)), as amended by section  
4 7207(e)(1), is amended—

5 (1) by striking “and” before “(P)”, and

6 (2) by inserting before the semicolon at the end  
7 the following: “, and (Q) with respect to surgical  
8 dressings, the amounts paid shall be the amounts  
9 determined under section 1834(j)”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to items furnished on or after Jan-  
12 uary 1, 1994.

13 **SEC. 7234. PAYMENTS FOR TENS DEVICES.**

14 (a) IN GENERAL.—Section 1834(a)(1)(D) (42 U.S.C.  
15 1395m(a)(1)(D)) is amended by striking “15 percent” the  
16 second place it appears and inserting “45 percent”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 subsection (a) shall apply to items furnished on or after  
19 January 1, 1994.

20 **Subpart D—Part B Premium**

21 **SEC. 7251. PART B PREMIUM.**

22 Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

23 (1) in paragraph (1)(A), by striking “December  
24 1983 and prior to January 1991 shall be an amount  
25 equal to 50 percent” and inserting “after December

1 1995 and prior to January 1999 shall be an amount  
2 equal to 50 percent”, and

3 (2) in paragraph (2), by striking “1991” and  
4 inserting “1998”.

5 **Subpart E—Other Provisions**

6 **SEC. 7261. REDUCTION IN UPDATE FOR CERTAIN PART B**  
7 **SERVICES.**

8 (a) DURABLE MEDICAL EQUIPMENT.—Section  
9 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

10 (1) in subparagraph (A), by striking “and” at  
11 the end;

12 (2) in subparagraph (B), by striking “a subse-  
13 quent year” and inserting “1993”, and by striking  
14 the period and inserting a semicolon; and

15 (3) by adding at the end the following new sub-  
16 paragraphs:

17 “(C) for 1994 , no percentage change;

18 “(D) for 1995, 1996, 1997, and 1998, the  
19 percentage increase in the consumer price index  
20 for all urban consumers (U.S. city average) for  
21 the 12-month period ending with June of the  
22 previous year, reduced by 1 percentage point;  
23 and

24 “(E) for any subsequent year, the percent-  
25 age increase in the consumer price index for all

1 urban consumers (U.S. city average) for the 12-  
2 month period ending with June of the previous  
3 year.”.

4 (b) ORTHOTICS AND PROSTHETICS.—Section  
5 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

6 (1) in clause (i), by striking “and”;

7 (2) in clause (ii), by striking “a subsequent  
8 year” and inserting “1992 and 1993”, and by strik-  
9 ing the semicolon and inserting a comma; and

10 (3) by adding at the end the following new  
11 clauses:

12 “(iii) for 1994, 0 percent,

13 “(iv) for 1995, 1996, 1997, and 1998,  
14 the percentage increase in the consumer  
15 price index for all urban consumers (Unit-  
16 ed States city average) for the 12-month  
17 period ending with June of the previous  
18 year, reduced by 1 percentage point, and

19 “(v) for any subsequent year, the per-  
20 centage increase in the consumer price  
21 index for all urban consumers (United  
22 States city average) for the 12-month pe-  
23 riod ending with June of the previous  
24 year;”.

25 (c) AMBULATORY SURGICAL CENTERS.—

1           (1) NO UPDATE IN 1994.—Notwithstanding the  
2           second sentence of subparagraph (A) or the second  
3           sentence of subparagraph (B) of section 1833(i)(2)  
4           of the Social Security Act, the Secretary of Health  
5           and Human Services shall not provide for any infla-  
6           tion update in the payment amounts under such  
7           subparagraphs (A) and (B) for 1994.

8           (2) AUTOMATIC APPLICATION OF INFLATION  
9           ADJUSTMENT.—Section 1833(i)(2) (42 U.S.C.  
10          1395l(i)(2)) is amended—

11           (A) in the second sentence of subpara-  
12           graph (A) and the second sentence of subpara-  
13           graph (B), by striking “and may be adjusted by  
14           the Secretary, when appropriate,”; and

15           (B) by adding at the end the following new  
16           subparagraphs:

17          “(C) Notwithstanding the second sentence of sub-  
18          paragraph (A) or the second sentence of subparagraph  
19          (B), if the Secretary has not updated amounts established  
20          under such subparagraphs with respect to facility services  
21          furnished during 1995, 1996, 1997, or 1998, such  
22          amounts shall be increased by the percentage increase in  
23          the Consumer Price Index for all Urban Consumers (U.S.  
24          city average) as estimated by the Secretary for the 12-

1 month period ending with the midpoint of the fiscal year  
2 involved, reduced by 1 percentage point.

3 “(D) Notwithstanding the second sentence of sub-  
4 paragraph (A) or the second sentence of subparagraph  
5 (B), if the Secretary has not updated amounts established  
6 under such subparagraphs with respect to facility services  
7 furnished during any subsequent year (beginning with  
8 1999), such amounts shall be increased by the percentage  
9 increase in the Consumer Price Index for all Urban Con-  
10 sumers (U.S. city average) as estimated by the Secretary  
11 for the 12-month period ending with June of the previous  
12 year.”.

13 (d) RURAL HEALTH CLINIC SERVICES; FEDERALLY-  
14 QUALIFIED HEALTH CENTER SERVICES; COMPREHEN-  
15 SIVE OUTPATIENT REHABILITATION FACILITY SERV-  
16 ICES.—In determining the amount of payment made for  
17 rural health clinic services, Federally qualified health cen-  
18 ter services, or comprehensive outpatient rehabilitation fa-  
19 cility services furnished under part B of title XVIII of the  
20 Social Security Act for services furnished—

21 (1) in 1994, the Secretary of Health and  
22 Human Services shall provide that any inflation up-  
23 date, in the applicable limits used to determine the  
24 costs which are reasonable and related to the cost of  
25 furnishing such services under section 1833(a)(3) of

1 such Act, that would otherwise have applied for  
2 1994 shall be deemed to be 0 percent; and

3 (2) in 1995, 1996, 1997, and 1998, the Sec-  
4 retary of Health and Human Services shall provide  
5 that any inflation update in such applicable limits  
6 shall be such update that would otherwise have ap-  
7 plied for such year, reduced by 1 percentage point.

8 (e) DIALYSIS SERVICES.—In determining the amount  
9 of payment made for dialysis services furnished under part  
10 B of title XVIII of the Social Security Act—

11 (1) in 1994, the Secretary of Health and  
12 Human Services shall provide that any inflation up-  
13 date, in the payment amounts determined under sec-  
14 tion 1881(b)(2)(B) of such Act or the rates deter-  
15 mined under section 1881(b)(7) of such Act, that  
16 would otherwise have applied for 1994 shall be  
17 deemed to be 0 percent; and

18 (2) in 1995, 1996, 1997, and 1998, the Sec-  
19 retary of Health and Human Services shall provide  
20 that any inflation update in such payment amounts  
21 or rates shall be such update that would otherwise  
22 have applied for such year, reduced by 1 percentage  
23 point.

24 (f) PARENTERAL AND ENTERAL NUTRIENTS, SUP-  
25 PLIES, AND EQUIPMENT.—In determining the amount of

1 payment under part B of title XVIII of the Social Security  
2 Act during 1994, the charges determined to be reasonable  
3 with respect to parenteral and enteral nutrients, supplies,  
4 and equipment may not exceed the charges determined to  
5 be reasonable with respect to such nutrients, supplies, and  
6 equipment during 1993.

7 (g) OTHER PART B ITEMS AND SERVICES.—

8 (1) In determining the amount of payment  
9 made for an item or service furnished during 1994  
10 under part B of title XVIII of the Social Security  
11 Act, other than physicians' services, clinical labora-  
12 tory services, or an item or service to which a pre-  
13 ceding provision of (or amendment made by) sub-  
14 section (a), (b), (c), (d), (e), or (f) applies, the Sec-  
15 retary of Health and Human Services shall provide  
16 that any inflation update in the fee schedule amount  
17 for the item or service established under such part  
18 B of such title, or (if applicable) any applicable limit  
19 used to determine the actual charge, reasonable  
20 charge, or reasonable cost for the item or service  
21 under such part, that would otherwise have applied  
22 for 1994 shall be deemed to be 0 percent.

23 (2) In determining the amount of payment  
24 made for an item or service furnished in 1995,  
25 1996, 1997, and 1998 under part B of title XVIII

1 of the Social Security Act, other than physician's  
2 services, clinical laboratory service, or an item or  
3 service to which a preceding provision of (or amend-  
4 ment made by) subsection (a), (b), (c), (d), or (e)  
5 applies, the Secretary of Health and Human Serv-  
6 ices shall provide that any inflation update in such  
7 fee schedule amount, or (if applicable) such applica-  
8 ble limit, shall be such update that would otherwise  
9 have applied for such year, reduced by 1 percentage  
10 point.

11 **SEC. 7262. PAYMENTS FOR CLINICAL DIAGNOSTIC LABORA-**  
12 **TORY TESTS.**

13 (a) LOWER CAP.—Section 1833(h)(4)(B) (42 U.S.C.  
14 1395l(h)(4)(B)) is amended—

15 (1) by striking “and” at the end of clause (iii),

16 (2) in clause (iv), by inserting “and before Jan-  
17 uary 1, 1994,” after “1990,”

18 (3) by striking the period at the end of clause  
19 (iv) and inserting “, and”, and

20 (4) by adding at the end the following:

21 “(v) after December 31, 1993, is equal to 76  
22 percent of the median of all the fee schedules estab-  
23 lished for that test for that laboratory setting under  
24 paragraph (1).”.

1 (b) NO UPDATE FOR 1994 THROUGH 1998.—Section  
2 1833(h)(2)(A)(ii)(II) (42 U.S.C. 1395l(h)(2)(A)(ii)(III))  
3 is amended by inserting “1994, 1995, 1996, 1997, and  
4 1998” after “1988”.

5 **PART III—PROVISIONS RELATING TO PARTS A**  
6 **AND B**

7 **SEC. 7301. PAYMENTS FOR DIRECT GRADUATE MEDICAL**  
8 **EDUCATION COSTS.**

9 (a) WEIGHTING FACTORS.—Section 1886(h)(4)(C)  
10 (42 U.S.C. 1395ww(h)(4)(C)) is amended to read as fol-  
11 lows:

12 “(C) WEIGHTING FACTORS FOR CERTAIN  
13 RESIDENTS.—Subject to subparagraph (D),  
14 such rules shall provide, in calculating the num-  
15 ber of full-time-equivalent residents in an ap-  
16 proved residency program—

17 “(i) with respect to residents entering  
18 an approved medical residency training  
19 program before September 1, 1993—

20 “(I) for a resident who is in the  
21 resident’s initial residency period, the  
22 weighting factor is 1.00, and

23 “(II) for a resident who is not in  
24 the resident’s initial residency period,  
25 the weighting factor is .50; and

1           “(ii) with respect to residents entering  
2           an approved medical residency training  
3           program on or after September 1, 1993—

4                   “(I) for a resident who is in the  
5                   resident’s initial residency period, and  
6                   is in—

7                           “(aa) a primary care resi-  
8                           dency, the weighting factor is  
9                           1.10, and

10                           “(bb) any other residency,  
11                           the weighting factor is 0.70, and

12                           “(II) for a resident who is not in  
13                           the resident’s initial residency period,  
14                           the weighting factor is 0.50.”.

15           (b) INITIAL RESIDENCY PERIOD.—

16                   (1) IN GENERAL.—Section 1886(h)(5)(F) (42  
17                   U.S.C. 1395ww(h)(5)(F)) is amended by striking  
18                   “plus one year”.

19                   (2) EFFECTIVE DATE.—The amendment made  
20                   by paragraph (1) shall be effective on and after July  
21                   1, 1995.

22           (c) PRIMARY CARE RESIDENCY.—Section 1886(h)(5)  
23           (42 U.S.C. 1395ww(h)(5)) is amended by adding at the  
24           end the following new subparagraph:

1           “(I) PRIMARY CARE RESIDENCY.—The  
2           term ‘primary care residency’ means a resi-  
3           dency training program in family medicine, gen-  
4           eral internal medicine, general pediatrics, pre-  
5           ventive care, geriatric care, or osteopathic gen-  
6           eral practice.”.

7           (d) PREVENTIVE CARE SERVICES AS PART OF INI-  
8           TIAL RESIDENCY PERIOD.—Section 1886(h)(5)(F)(ii) (42  
9           U.S.C. 1395ww(h)(5)(F)(ii)) is amended by inserting “or  
10          a preventive care residency or fellowship program” after  
11          “fellowship program”.

12          (e) SUCCESSOR EXAMS INCLUDED IN DEFINITION OF  
13          FMGEMS EXAMINATION.—

14               (1) IN GENERAL.—Section 1886(h)(5)(E) is  
15               amended by inserting “or any successor examina-  
16               tion” after “Medical Sciences”.

17               (2) EFFECTIVE DATE.—The amendment made  
18               by paragraph (1) shall apply as if included in the  
19               enactment of the Consolidated Omnibus Budget  
20               Reconciliation Act of 1985 (Public Law 99–272).

21          (f) REPORT BY THE SECRETARY.—

22               (1) RECOMMENDATIONS.—The Secretary shall  
23               make recommendations—

1 (A) concerning the extent to which vari-  
2 ation in the approved FTE per resident  
3 amounts should be reduced;

4 (B) whether the approved FTE per resi-  
5 dent amounts should be adjusted to account for  
6 substantial changes in the operation of an ap-  
7 proved medical residency training program  
8 since the base year calculation; and

9 (C) potential changes in the graduate med-  
10 ical education payment system that would pro-  
11 mote residency training in nonhospital ambula-  
12 tory site.

13 (2) REPORT.—Not later than July 31, 1994,  
14 the Secretary shall deliver a report to Congress  
15 which shall contain recommendations on each of the  
16 matters under paragraph (1).

17 **SEC. 7302. REVISION OF HOME HEALTH AGENCY COST LIM-**  
18 **ITS.**

19 (a) IN GENERAL.—Section 1861(v)(1)(L) (42 U.S.C.  
20 1395x(v)(1)(L)(i)) is amended—

21 (1) in clause (i), by striking “for cost reporting  
22 periods” and all that follows through to the period  
23 and inserting “110 percent of the median of the  
24 labor-related and nonlabor per visit costs for home  
25 health agencies.”, and

1           (2) in clause (ii), by striking “specific basis,”  
2           and all that follows through “agencies.” and insert-  
3           ing “specific basis.”.

4           (b) EFFECTIVE DATE.—The amendments made by  
5           subsection (a) shall apply to cost reporting periods begin-  
6           ning on or after October 1, 1993.

7           **SEC. 7303. MEDICARE AS SECONDARY PAYER.**

8           (a) EXTENSION OF AND MODIFICATIONS TO DATA  
9           MATCH PROGRAM.—(1)(A) Section 1862(b)(5)(C)(iii) (42  
10           U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking  
11           “1995” and inserting “1998”.

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

14           (i) in clause (i), by striking “1995” and insert-  
15           ing “1998”,

16           (ii) in clause (ii)(I), by striking “1994” and in-  
17           serting “1997”, and

18           (iii) in clause (ii)(II), by striking “1995” and  
19           inserting “1998”.

20           (2)(A) Section 6103(l)(12)(B)(i) of the Internal Rev-  
21           enue Code of 1986 is amended by inserting “, above an  
22           amount (if any) specified by the Secretary of Health and  
23           Human Services,” after “section 3401(a)”.

24           (B) The matter in section 6103(l)(12)(B)(ii) of such  
25           Code preceding subclause (I) is amended by inserting “,

1 above an amount (if any) specified by the Secretary of  
2 Health and Human Services,” after “wages”.

3 (C) The heading to section 6103(l)(12) of such Code  
4 is amended by striking “TAXPAYER IDENTITY” and insert-  
5 ing “RETURN”.

6 (3)(A) Section 6103(l)(12) of the Internal Revenue  
7 Code of 1986, as amended by paragraph (1), is amend-  
8 ed—

9 (i) by redesignating subparagraphs (E) and (F)  
10 as subparagraphs (F) and (G), respectively, and

11 (ii) by inserting after subparagraph (D) the fol-  
12 lowing new subparagraph:

13 “(E) DISCLOSURE CONCERNING ENFORCE-  
14 MENT ACTIVITIES.—The Secretary shall, upon  
15 written request from the Secretary of Health  
16 and Human Services, disclose to the Secretary  
17 of Health and Human Services the status of  
18 any activities undertaken (with respect to per-  
19 sons specified by the Secretary of Health and  
20 Human Services) to enforce the requirements of  
21 section 5000.”.

22 (B) Section 6103(l)(12)(D)(i) of such Code is amend-  
23 ed by striking “this paragraph” and inserting “subpara-  
24 graphs (A) through (C)”.

1 (C) The heading to section 6103(l)(12) of such Code  
2 is amended by inserting “AND FOR FACILITATION OF EN-  
3 FORCEMENT OF MEDICARE SECONDARY PAYER REQUIRE-  
4 MENTS” before the period.

5 (D) Section 1862(b)(5)(C)(i) (42 U.S.C.  
6 1395y(b)(5)(C)(i)) is amended by striking  
7 “6103(l)(12)(D)(iii)” and inserting “6103(l)(12)(F)(iii)”.

8 (b) PERMANENT APPLICATION TO DISABLED ACTIVE  
9 INDIVIDUALS.—Section 1862(b)(1)(B) (42 U.S.C.  
10 1395y(b)(1)(B)) is amended by striking clause (iii).

11 (c) APPLICATION OF ESRD RULES TO CERTAIN  
12 AGED AND DISABLED BENEFICIARIES AND INCREASE IN  
13 MEDICARE SECONDARY PAYER COVERAGE FOR ESRD  
14 SERVICES TO 24-MONTHS.—(1) Subparagraphs (A)(iv)  
15 and (B)(ii) of section 1862(b)(1) (42 U.S.C. 1395y(b)(1))  
16 are each amended—

17 (A) by striking “Clause (i) shall not apply” and  
18 inserting “Subparagraph (C) shall apply instead of  
19 clause (i)”, and

20 (B) by inserting “(without regard to entitle-  
21 ment under section 226)” after “individual is, or”.

22 (2) Section 1862(b)(1)(C) (42 U.S.C.  
23 1395y(b)(1)(C)) is amended—

1 (A) in the second sentence, by striking “on or  
2 before January 1, 1996” and inserting before “Jan-  
3 uary 1, 1994”, and

4 (B) by adding at the end the following: “Effec-  
5 tive for items and services furnished on or after Jan-  
6 uary 1, 1994, and before October 1, 1998, (with re-  
7 spect to periods beginning on or after July 1, 1992),  
8 this subparagraph shall be applied by substituting  
9 ‘24-month’ for ‘12-month’ each place it appears.”.

10 (d) APPLICATION OF EXCISE TAX TO FAILURE TO  
11 REIMBURSE FEDERAL GOVERNMENT.—

12 (1) IN GENERAL.—Section 5000(c) of the Inter-  
13 nal Revenue Code of 1986 is amended by striking  
14 “of section 1862(b)(1)” and inserting “of paragraph  
15 (1), or with the requirements of paragraph (2), of  
16 section 1862(b).”.

17 (2) EFFECTIVE DATE.—The amendment made  
18 by paragraph (1) shall apply to demands for repay-  
19 ment issued after the date of the enactment of this  
20 Act.

21 (e) RETROACTIVE EXEMPTION FOR CERTAIN SITUA-  
22 TIONS INVOLVING RELIGIOUS ORDERS.—Section  
23 1862(b)(1)(D) of the Social Security Act (42 U.S.C.  
24 1395y(b)(1)(D)) applies, with respect to items and serv-  
25 ices furnished before October 1, 1989, to any claims that

1 the Secretary of Health and Human Services had not  
2 identified before that date as subject to the provisions of  
3 this subsection.

4 (f) UNIFORM RULES FOR SIZE OF EMPLOYER.—(1)  
5 Section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended  
6 by adding at the end the following new subparagraph:

7 “(E) GENERAL PROVISIONS.—

8 “(i) EXCLUSION OF GROUP HEALTH  
9 PLAN OF A SMALL EMPLOYER.—Subpara-  
10 graphs (A) through (C) shall not apply to  
11 a group health plan unless the plan is a  
12 plan of, or contributed to by, an employer  
13 or employee organization that has 20 or  
14 more individuals in current employment  
15 status for each working day in each of 20  
16 or more calendar weeks in the current cal-  
17 endar year or the preceding calendar year.

18 “(ii) EXCEPTION FOR SMALL EMPLOY-  
19 ERS IN MULTIEMPLOYER OR MULTIPLE  
20 EMPLOYER GROUP HEALTH PLANS.—Sub-  
21 paragraphs (A) through (C) shall not apply  
22 with respect to individuals enrolled in a  
23 multiemployer or multiple employer group  
24 health plan if the coverage of the individ-  
25 uals under the plan is by virtue of current

1 employment status with an employer that  
2 does not have 20 or more individuals in  
3 current employment status for each work-  
4 ing day in each of 20 or more calendar  
5 weeks in the current calendar year or the  
6 preceding calendar year; but the exception  
7 provided in this clause applies only if the  
8 plan elects treatment under this clause.

9 “(iii) SPECIAL RULES.—For purposes  
10 of clauses (i) and (ii)—

11 “(I) all employees of corporations  
12 which are members of a controlled  
13 group of corporations (within the  
14 meaning of section 1563(a) of the In-  
15 ternal Revenue Code of 1986, deter-  
16 mined without regard to section  
17 1563(a)(4) or section (e)(3)(C) of  
18 such Code), shall be treated as em-  
19 ployed by a single employer,

20 “(II) all employees of trades or  
21 businesses (whether or not incor-  
22 porated) which are under common  
23 control (under regulations prescribed  
24 by the Secretary of the Treasury  
25 under section 414(c) of such Code)

1 shall be treated as employed by a sin-  
2 gle employer,

3 “(III) all employees of the mem-  
4 bers of an affiliated service group (as  
5 defined in section 414(m) of such  
6 Code) shall be treated as employed by  
7 a single employer, and

8 “(IV) leased employees (as de-  
9 fined in section 414(n)(2) of such  
10 Code) shall be treated as employees of  
11 the person for whom they perform  
12 services to the extent they are so  
13 treated under section 414(n) of such  
14 Code.

15 In applying sections of the Internal Reve-  
16 nue Code under this clause, the Secretary  
17 shall rely upon regulations and decisions of  
18 the Secretary of the Treasury respecting  
19 such sections.”.

20 “(iv) GROUP HEALTH PLAN DE-  
21 FINED.—For purposes of this subsection,  
22 the term ‘group health plan’ has the mean-  
23 ing given such term in section 5000(b) of  
24 the Internal Revenue Code of 1986, with-

1 out regard to section 5000(d) of such  
2 Code.

3 “(v) CURRENT EMPLOYMENT STATUS  
4 DEFINED.—For purposes of this sub-  
5 section, an individual has ‘current employ-  
6 ment status’ with an employer if the indi-  
7 vidual is an employee, is the employer, or  
8 is associated with the employer in a busi-  
9 ness relationship.

10 “(vi) EMPLOYER DEFINED.—For pur-  
11 poses of this subsection, the term ‘em-  
12 ployer’ includes a self-employed person.”.

13 (2)(A) Section 1862(b)(1)(A)(i)(I) (42 U.S.C.  
14 1395y(b)(1)(A)(i)(I)) is amended to read as follows:

15 “(I) may not take into account  
16 that an individual (or the individual’s  
17 spouse) who is covered under the plan  
18 by virtue of the individual’s current  
19 employment status with an employer  
20 is entitled to benefits under this title  
21 under section 226(a), and”.

22 (B) Section 1862(b)(1)(A)(i)(II) (42 U.S.C.  
23 1395y(b)(1)(A)(i)(II)) is amended to read as follows:

24 “(II) shall provide that any indi-  
25 vidual age 65 or over (and the indi-

1           vidual’s spouse age 65 or older) who  
2           is covered under the plan by virtue of  
3           the individual’s current employment  
4           status with an employer shall be enti-  
5           tled to the same benefits under the  
6           plan under the same conditions as any  
7           such individual (or spouse) under age  
8           65.”.

9           (C)     Section     1862(b)(1)(A)     (42     U.S.C.  
10    1395y(b)(1)(A)), as amended by subsection (c)(1), is  
11    amended—

12           (i) by striking clauses (ii), (iii), and (v), and  
13           (ii) by redesignating clause (iv) as clause (ii).

14           (3)(A)   Section     1862(b)(1)(B)     (42     U.S.C.  
15    1395y(b)(1)(B)(i)) is amended—

16           (i) by striking the heading and inserting the fol-  
17           lowing new heading:

18                   “(B)   DISABLED   INDIVIDUALS   UNDER  
19                   GROUP HEALTH PLANS.—”, and

20           (ii) by striking clause (i) and inserting the fol-  
21           lowing new clause:

22                   “(i) IN GENERAL.—A group health plan  
23                   may not take into account that an individual  
24                   (or a member of the individual’s family) who is  
25                   covered under the plan by virtue of the individ-

1           ual’s current employment status with an em-  
2           ployer is entitled to benefits under this title  
3           under section 226(b).”.

4           (B)     Section     1862(b)(1)(B)     (42     U.S.C.  
5     1395y(b)(1)(B)) is amended by striking clause (iv).

6           (4)     Section     1862(b)(1)(C)     (42     U.S.C.  
7     1395y(b)(1)(C)) is amended—

8           (A) in the matter preceding clause (i), by strik-  
9           ing “(as defined in subparagraph (A)(v))”,

10          (B) by striking “solely” each place it appears,

11          (C) by striking “by reason of” and inserting  
12          “under” each place it appears, and

13          (D) by inserting “or eligible for” after “entitled  
14          to” the first and last place it appears.

15          (5) The second sentence of section 1862(b)(2)(A) (42  
16     U.S.C. 1395y(b)(2)(A)) is amended by striking “or large  
17     group health plan”.

18          (6)(A) Subsection (a) of section 5000 of the Internal  
19     Revenue Code of 1986 is amended by inserting “(including  
20     a self-employed person)” after “employer”;

21          (B) Subsection (b) of section 5000 of such Code is  
22     amended to read as follows:

23          “(b) GROUP HEALTH PLAN.—The term ‘group  
24     health plan’ means a plan (including a self-insured plan)  
25     of, or contributed to by, an employer (including a self-em-

1 ployed person) or employee organization to provide health  
2 care (directly or otherwise) to the employees, former em-  
3 ployees, the employer, others associated or formerly asso-  
4 ciated with the employer in a business relationship, or  
5 their families.”; and

6 (C) Subsection (c) of section 5000 of such Code by  
7 striking “or large group health plan”.

8 (D) Section 6103(l)(12)(F)(ii) of such Code (as re-  
9 designated by subsection (a)(3)(A)(i) of this section) is  
10 amended to read as follows:

11 “(ii) GROUP HEALTH PLAN.—The  
12 term ‘group health plan’ means any group  
13 health plan (as defined in section  
14 5000(b)).”.

15 (g) EFFECTIVE DATE.—The amendments made by  
16 subsections (c)(1), (d), and (f) apply to items and services  
17 furnished after the third calendar month beginning after  
18 the date of enactment of this Act.

19 **SEC. 7304. EXTENSION OF SELF-REFERRAL BAN TO ADDI-**  
20 **TIONAL SPECIFIED SERVICES.**

21 (a) EXTENSION TO DESIGNATED HEALTH SERV-  
22 ICES.—

23 (1) IN GENERAL.—Section 1877(h) (42 U.S.C.  
24 1395nn(h)) is amended by adding at the end the fol-  
25 lowing new paragraph:

1           “(8) DESIGNATED HEALTH SERVICES.—The  
2 term ‘designated health services’ means—

3           “(A) clinical laboratory services;

4           “(B) physical or occupational therapy serv-  
5 ices;

6           “(C) radiology or other diagnostic services;

7           “(D) radiation therapy services;

8           “(E) the furnishing of durable medical  
9 equipment;

10           “(F) the furnishing of parenteral and en-  
11 teral nutrition nutrients, supplies, and equip-  
12 ment;

13           “(G) home health services; and

14           “(H) the furnishing of prosthetics,  
15 orthotics, and prosthetic devices.”.

16           (2) CONFORMING AMENDMENTS.—Section 1877  
17 (42 U.S.C. 1395nn) is amended—

18           (A) by striking “clinical laboratory serv-  
19 ices” and “CLINICAL LABORATORY SERVICES”  
20 and inserting “designated health services” and  
21 “DESIGNATED HEALTH SERVICES”, respectively,  
22 each place either appears in subsections (a)(1),  
23 (b)(2)(A)(ii), (d)(1), (d)(2), and (d)(3); and

24           (B) by striking “clinical laboratory serv-  
25 ices” and inserting “designated health service”

1           each place it appears in subsections (g)(1) and  
2           (h)(7)(B).

3           (b) MODIFICATION TO EXCEPTION FOR IN-OFFICE  
4 ANCILLARY SERVICES.—Section 1877(b)(2) (42 U.S.C.  
5 1395nn(b)(2)) is amended—

6           (1) by inserting “(other than durable medical  
7           equipment and parenteral and enteral nutrition  
8           equipment and supplies)” after “services” the first  
9           place it appears; and

10           (2) in subparagraph (A)(ii)(II), by striking  
11           “centralized provision” and inserting “provision of  
12           some or all”.

13           (c) TREATMENT OF COMPENSATION ARRANGE-  
14 MENTS.—

15           (1) RENTAL OF OFFICE SPACE AND EQUIP-  
16 MENT.—

17           (A) IN GENERAL.—Paragraph (1) of sec-  
18           tion 1877(e) (42 U.S.C. 1395nn(e)) is amended  
19           to read as follows:

20           “(1) RENTAL OF OFFICE SPACE; RENTAL OF  
21 EQUIPMENT.—

22           “(A) OFFICE SPACE.—Payments made by  
23           a lessee to a lessor for the use of premises if—

1           “(i) the lease is set out in writing,  
2 signed by the parties, and specifies the  
3 premises covered by the lease,

4           “(ii) the space rented or leased is rea-  
5 sonable and necessary for the legitimate  
6 business purposes of the lease or rental  
7 and is used exclusively by the lessee when  
8 being used by the lessee, except that the  
9 lessee may make payments for the use of  
10 space consisting of common areas if such  
11 payments do not exceed the lessee’s pro  
12 rata share of expenses for such space  
13 based upon the ratio of the space used ex-  
14 clusively by the lessee to the total amount  
15 of space (other than common areas) occu-  
16 pied by all persons using such common  
17 areas,

18           “(iii) the lease provides for a term of  
19 rental or lease for at least one year,

20           “(iv) the rental charges over the term  
21 of the lease are set in advance, are consist-  
22 ent with fair market value, and are not de-  
23 termined in a manner that takes into ac-  
24 count the volume or value of any referrals

1 or other business generated between the  
2 parties,

3 “(v) the lease would be commercially  
4 reasonable even if no referrals were made  
5 between the parties,

6 “(vi) the lease covers all of the prem-  
7 ises leased between the parties for the pe-  
8 riod of the lease, and

9 “(vii) the compensation arrangement  
10 meets such other requirements as the Sec-  
11 retary may impose by regulation as needed  
12 to protect against program or patient  
13 abuse.

14 “(B) EQUIPMENT.—Payments made by a  
15 lessee of equipment to the lessor of the equip-  
16 ment for the use of the equipment if—

17 “(i) the lease is set out in writing,  
18 signed by the parties, and specifies the  
19 equipment covered by the lease,

20 “(ii) the equipment rented or leased is  
21 reasonable and necessary for the legitimate  
22 business purposes of the lease or rental  
23 and is used exclusively by the lessee when  
24 being used by the lessee,

1           “(iii) the lease provides for a term of  
2           rental or lease of at least one year,

3           “(iv) the rental charges over the term  
4           of the lease are set in advance, are consist-  
5           ent with fair market value, and are not de-  
6           termined in a manner that takes into ac-  
7           count the volume or value of any referrals  
8           or other business generated between the  
9           parties,

10          “(v) the lease would be commercially  
11          reasonable even if no referrals were made  
12          between the parties,

13          “(vi) the lease covers all of the equip-  
14          ment leased between the parties for the pe-  
15          riod of the lease, and

16          “(vii) the compensation arrangement  
17          meets such other requirements as the Sec-  
18          retary may impose by regulation as needed  
19          to protect against program or patient  
20          abuse.”.

21          (B) CONFORMING AMENDMENT.—Section  
22          1877(h) (42 U.S.C. 1395nn(h)) is amended by  
23          striking paragraphs (5) and (6) and by redesign-  
24          ating paragraphs (7) and (8) (as added by

1 subsection (a)(1)) as paragraphs (5) and (6),  
2 respectively.

3 (2) BONA FIDE EMPLOYMENT RELATION-  
4 SHIPS.—Section 1877(e)(2) (42 U.S.C.  
5 1395nn(e)(2)) is amended—

6 (A) by striking “AND SERVICE” and “WITH  
7 HOSPITALS”;

8 (B) by striking “An arrangement” and all  
9 that follows through “if” and inserting “Any  
10 amount paid by an employer to a physician (or  
11 an immediate family member of such physician)  
12 who has a bona fide employment relationship  
13 with the employer for the provision of services  
14 if”;

15 (C) in subparagraphs (A), (B), and (D), by  
16 striking “arrangement” and inserting “employ-  
17 ment relationship”;

18 (D) in subparagraph (C), by striking “hos-  
19 pital” and inserting “employer”; and

20 (E) by adding at the end the following new  
21 flush sentence:

22 “Subparagraph (B)(ii) shall not be construed as pro-  
23 hibiting the payment of remuneration in the form of  
24 a productivity bonus based on services performed

1 personally by the physician (or an immediate family  
2 member of such physician).”.

3 (3) PERSONAL SERVICE ARRANGEMENTS.—Sec-  
4 tion 1877(e)(3) (42 U.S.C. 1395nn(e)(3)) is amend-  
5 ed to read as follows:

6 “(3) SERVICE ARRANGEMENTS.—

7 “(A) PERSONAL SERVICE ARRANGE-  
8 MENTS.—Remuneration from an entity under  
9 an arrangement if—

10 “(i) the arrangement is set out in  
11 writing, signed by the parties, and specifies  
12 the services covered by the arrangement,

13 “(ii) the arrangement covers all of the  
14 services to be provided,

15 “(iii) the aggregate services con-  
16 tracted for do not exceed those that are  
17 reasonable and necessary for the legitimate  
18 business purposes of the arrangement,

19 “(iv) the term of the arrangement is  
20 for at least one year,

21 “(v) the compensation to be paid over  
22 the term of the arrangement is set in ad-  
23 vance, does not exceed fair market value,  
24 and is not determined in a manner that  
25 takes into account the volume or value of

1 any referrals or other business generated  
2 between the parties,

3 “(vi) the services to be performed  
4 under the arrangement do not involve the  
5 counseling or promotion of a business ar-  
6 rangement of other activity that violates  
7 any State or Federal law, and

8 “(vii) the arrangement meets such  
9 other requirements as the Secretary may  
10 impose by regulation as needed to protect  
11 against program or patient abuse.

12 “(B) OTHER SERVICE ARRANGEMENTS.—  
13 Remuneration from an entity under an arrange-  
14 ment if—

15 “(i) the arrangement is—

16 “(I) for specific identifiable serv-  
17 ices as the medical director or as a  
18 member of a medical advisory board  
19 at the entity pursuant to a require-  
20 ment of this title,

21 “(II) for specific identifiable phy-  
22 sicians’ services to be furnished to an  
23 individual receiving hospice care if  
24 payment for such services may only be  
25 made under this title as hospice care,

1                   “(III) for specific physicians’  
2                   services furnished to a nonprofit blood  
3                   center, or

4                   “(IV) for specific identifiable ad-  
5                   ministrative services (other than di-  
6                   rect patient care services), but only  
7                   under exceptional circumstances speci-  
8                   fied by the Secretary in regulations;

9                   “(ii) the requirements described in  
10                  subparagraphs (B) and (C) of paragraph  
11                  (2) are met with respect to the entity in  
12                  the same manner as they apply to an em-  
13                  ployer; and

14                  “(iii) the arrangement meets such  
15                  other requirements as the Secretary may  
16                  impose by regulation as needed to protect  
17                  against program or patient abuse.”.

18                  (4) HEALTH SERVICES FURNISHED UNDER  
19                  CERTAIN HOSPITAL ARRANGEMENTS.—Section  
20                  1877(e) (42 U.S.C. 1395nn(e)) is amended by add-  
21                  ing at the end the following new paragraph:

22                  “(7) CERTAIN GROUP PRACTICE ARRANGE-  
23                  MENTS WITH A HOSPITAL.—

24                  “(A) IN GENERAL.—An arrangement be-  
25                  tween a hospital and a group under which des-

1           ignated health services are provided by the  
2           group but are billed by the hospital if—

3                   “(i) the group would be a group prac-  
4                   tice, but for the fact that it bills for such  
5                   services through the hospital;

6                   “(ii) with respect to services provided  
7                   to an inpatient of the hospital, the ar-  
8                   rangement is pursuant to the provision of  
9                   inpatient hospital services under section  
10                  1861(b)(3);

11                  “(iii) the arrangement began before  
12                  December 19, 1989, and has continued in  
13                  effect without interruption since such date;

14                  “(iv) the group provides substantially  
15                  all of the designated health services fur-  
16                  nished under the arrangement to the hos-  
17                  pital’s patients;

18                  “(v) the arrangement is pursuant to  
19                  an agreement that is set out in writing and  
20                  that specifies the services to be provided by  
21                  the parties and the compensation for serv-  
22                  ices provided under the arrangement;

23                  “(vi) the compensation paid over the  
24                  term of the agreement is consistent with  
25                  fair market value and the compensation

1 per unit of services is fixed in advance and  
2 is not determined in a manner that takes  
3 into account the volume or value of any re-  
4 ferrals or other business generated between  
5 the parties;

6 “(vii) the compensation is provided  
7 pursuant to an agreement which would be  
8 commercially reasonable even if no refer-  
9 rals were made to the entity; and

10 “(viii) the arrangement between the  
11 parties meets such other requirements as  
12 the Secretary may impose by regulation as  
13 needed to protect against program or pa-  
14 tient abuse.”.

15 (5) ADDITIONAL EXCEPTION.—Section 1877(e)  
16 (42 U.S.C. 1395nn(e)) is further amended by adding  
17 at the end the following new paragraph:

18 “(8) PAYMENTS BY A PHYSICIAN FOR ITEMS  
19 AND SERVICES.—Payments made by a physician—

20 “(A) to a laboratory in exchange for the  
21 provision of clinical laboratory diagnostic tests,  
22 or

23 “(B) to an entity as compensation for  
24 other items or services if the items or services

1           are furnished at a price that is consistent with  
2           fair market value.”.

3           (6) REFERRING PHYSICIANS.—Subparagraph  
4           (C) of section 1877(h)(5) (42 U.S.C. 1395nn(h)(5)),  
5           as redesignated by subsection (c)(1)(B), is amend-  
6           ed—

7                   (A) by inserting “a request by a radiologist  
8                   for diagnostic radiology services, and a request  
9                   by a radiation oncologist for radiation therapy,”  
10                  after “examination services,” and

11                   (B) by inserting “, radiologist, or radiation  
12                   oncologist” after “pathologist” the second place  
13                  it appears.

14           (7) CONFORMING AMENDMENT.—Section  
15           1877(b) (42 U.S.C. 1395nn(b)) is amended by strik-  
16           ing paragraph (4) and redesignating paragraph (5)  
17           as paragraph (4).

18           (d) REQUIREMENTS FOR GROUP PRACTICE.—

19                   (1) ADDITIONAL REQUIREMENTS.—Section  
20           1877(h)(4) (42 U.S.C. 1395nn(h)(4)) is amended to  
21           read as follows:

22                   “(4) GROUP PRACTICE.—

23                           “(A) DEFINITION OF GROUP PRACTICE.—

24                           The term ‘group practice’ means a group of 2  
25                           or more physicians legally organized as a part-

1           nership, professional corporation, foundation,  
2           not-for-profit corporation, faculty practice plan,  
3           or similar association—

4                   “(i) in which each physician who is a  
5                   member of the group provides substantially  
6                   the full range of services which the physi-  
7                   cian routinely provides, including medical  
8                   care, consultation, diagnosis, or treatment,  
9                   through the joint use of shared office  
10                  space, facilities, equipment and personnel;

11                   “(ii) for which substantially all of the  
12                   services of the physicians who are members  
13                   of the group are provided through the  
14                   group and are billed in the name of the  
15                   group and amounts so received are treated  
16                   as receipts of the group;

17                   “(iii) in which the overhead expenses  
18                   of and the income from the practice are  
19                   distributed in accordance with methods  
20                   previously determined by members of the  
21                   group;

22                   “(iv) except as provided in subpara-  
23                   graph (B)(i), in which no physician who is  
24                   a member of the group directly or indi-  
25                   rectly receives compensation based on the

1 volume or value of referrals by the physi-  
2 cian;

3 “(v) in which, on average, there are  
4 no less than 5 physicians per office loca-  
5 tion, but if a group has less than 15 physi-  
6 cians such group may have up to 3 office  
7 locations any one of which may have less  
8 than 5 physicians;

9 “(vi) in which members of the group  
10 personally conduct no less than 75 percent  
11 of the physician-patient encounters of the  
12 group practice; and

13 “(vii) which meets such other stand-  
14 ards as the Secretary may impose by regu-  
15 lation.

16 “(B) SPECIAL RULES.—

17 “(i) PROFITS AND PRODUCTIVITY BO-  
18 NUSES.—A physician in a group practice  
19 may be paid a share of overall profits of  
20 the group, or a productivity bonus based  
21 on services personally performed or serv-  
22 ices incident to such personally performed  
23 services, so long as the share or bonus is  
24 not determined in any manner which is di-

1           rectly related to the volume or value of re-  
2           ferrals by such physician.

3           “(ii) FACULTY PRACTICE PLANS.—In  
4           the case of a faculty practice plan associ-  
5           ated with a hospital, institution of higher  
6           education, or medical school with an ap-  
7           proved medical residency training program  
8           in which physician members may provide a  
9           variety of different specialty services and  
10          provide professional services both within  
11          and outside the group, as well as perform  
12          other tasks such as research, subparagraph  
13          (A) shall be applied only with respect to  
14          the services provided within the faculty  
15          practice plan.

16          “(C) DEFINITION OF OFFICE LOCATION.—  
17          For purposes of this paragraph, the term ‘office  
18          location’ means an office where physician serv-  
19          ices are offered to patients except that—

20               “(i) such term does not include—

21                   “(I) a location consisting solely of a  
22                   diagnostic facility, nursing facility, or  
23                   treatment facility such as a physical or oc-  
24                   cupational therapy center, or a facility pro-

1 viding administrative services affiliated  
2 with the group practice; or

3 “(II) an office located in a rural area  
4 (as defined in section 1886(d)(2)(D)) if at  
5 least 85 percent of the physicians’ services  
6 furnished at the location are furnished to  
7 individuals who reside in such a rural area;  
8 and

9 “(ii) any office location which is located  
10 immediately adjacent to another office location  
11 shall be treated as the same office location.”.

12 (2) USE OF BILLING NUMBERS, ETC.—Section  
13 1877 (42 U.S.C. 1395nn) is amended—

14 (A) in subsection (b)(2)(B), by inserting  
15 “under a billing number assigned to the group  
16 practice” after “member”,

17 (B) in subsection (h)(4)(A)(ii), as added  
18 by subsection (d)(1), by inserting “and under a  
19 billing number assigned to the group” after “in  
20 the name of the group”, and

21 (C) in subsection (h)(4)(A)(iii), as so  
22 added, by striking “by members of the group”.

23 (3) CONFORMING AMENDMENT.—Section  
24 1877(h) (42 U.S.C. 1395nn(h)) is amended by strik-

1 ing “DEFINITIONS.—” and inserting “DEFINITIONS  
2 AND SPECIAL RULES.—”.

3 (e) EXPANDING RURAL PROVIDER EXCEPTION TO  
4 COVER COMPENSATION ARRANGEMENTS.—

5 (1) IN GENERAL.—Section 1877(b) (42 U.S.C.  
6 1395nn(b)) is amended—

7 (A) by redesignating paragraph (4), as re-  
8 designated by subsection (c)(7), as paragraph  
9 (5), and

10 (B) by inserting after paragraph (3) the  
11 following new paragraph:

12 “(4) RURAL PROVIDERS.—In the case of des-  
13 igned health services if—

14 “(A) the services are furnished in a rural  
15 area (as defined in section 1886(d)(2)(D)), and

16 “(B) substantially all of the services fur-  
17 nished by the entity furnishing the services de-  
18 scribed in subparagraph (A) are furnished to  
19 individuals entitled to benefits under this title  
20 who reside in such a rural area.”.

21 (2) CONFORMING AMENDMENTS.—Section  
22 1877(d) (42 U.S.C. 1395nn(d)) is amended—

23 (A) by striking paragraph (2), and

24 (B) by redesignating paragraph (3) as  
25 paragraph (2).

1 (f) EXEMPTION OF COMPENSATION ARRANGEMENTS  
2 INVOLVING CERTAIN TYPES OF REMUNERATION.—Sec-  
3 tion 1877(h)(1) (42 U.S.C. 1395nn(h)(1)) is amended—

4 (1) in subparagraph (A), by inserting before the  
5 period at the end the following: “other than an ar-  
6 rangement involving only remuneration described in  
7 subparagraph (C)”, and

8 (2) by adding at the end the following new sub-  
9 paragraph:

10 “(C) Remuneration described in this subpara-  
11 graph is any remuneration consisting of any of the  
12 following:

13 “(i) The forgiveness of amounts owed for  
14 inaccurate tests or procedures, mistakenly per-  
15 formed tests or procedures, or the correction of  
16 minor billing errors.

17 “(ii) The provision of items, devices, or  
18 supplies of minor value that are used to—

19 “(I) collect, transport, process, or  
20 store specimens for the entity providing  
21 the item, device, or supply, or

22 “(II) communicate the results of tests  
23 or procedures for such entity.”.

1 (g) EXCEPTION FOR PUBLICLY-TRADED SECURI-  
2 TIES.—Section 1877(c) (42 U.S.C. 1395nn(c)) is amend-  
3 ed—

4 (1) in the matter preceding paragraph (1), by  
5 striking “on terms generally available to the public”  
6 and inserting “through public trading on a public  
7 exchange or which were inherited”; and

8 (2) in paragraph (2), by striking “total assets  
9 exceeding \$100,000,000” and inserting “stockholder  
10 equity exceeding \$75,000,000”.

11 (h) MISCELLANEOUS AND TECHNICAL CORREC-  
12 TIONS.—Section 1877 (42 U.S.C. 1395nn) is amended—

13 (1) in subsection (b)(2)(A)(i), by striking “who  
14 are employed by such physician or group practice  
15 and who are personally” and inserting “who are di-  
16 rectly”;

17 (2) in the fourth sentence of subsection (f)—

18 (A) by striking “provided” and inserting  
19 “furnished”, and

20 (B) by striking “provides” and inserting  
21 “furnish”;

22 (3) in the last sentence of subsection (f)—

23 (A) by striking “providing” each place it  
24 appears and inserting “furnishing”,

1 (B) by striking “with respect to the provid-  
2 ers” and inserting “with respect to the enti-  
3 ties”, and

4 (C) by striking “diagnostic imaging serv-  
5 ices of any type” and inserting “magnetic reso-  
6 nance imaging, computerized axial tomography  
7 scans, and ultrasound services”; and

8 (4) in subsection (a)(2)(B), by striking “sub-  
9 section (h)(1)(A)” and inserting “subsection (h)(1)”.  
10 (i) EFFECTIVE DATES.—

11 (1) Except as provided in paragraph (2), the  
12 amendments made by this section shall apply to re-  
13 ferrals made on or after January 1, 1992.

14 (2) The amendments made by subsection (a)  
15 apply with respect to a referral by a physician for  
16 designated health services (as defined in section  
17 1877(h)(6) of the Social Security Act) made after  
18 December 31, 1994.

19 **SEC. 7305. REDUCTION IN PAYMENT FOR ERYTHRO-**  
20 **POIETIN.**

21 (a) IN GENERAL.—Section 1881(b)(11)(B)(ii)(I) (42  
22 U.S.C. 1395rr(b)(11)(B)(ii)(I)) is amended—

23 (1) by striking “1991” and inserting “1994”,  
24 and

25 (2) by striking “\$11” and inserting “\$10”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) apply to erythropoietin furnished after  
3 1993.

## 4 **Subtitle B—Medicaid Program**

### 5 **PART I—PROGRAM SAVINGS PROVISIONS**

#### 6 **Subpart A—Repeal of Mandate**

#### 7 **SEC. 7401. PERSONAL CARE SERVICES FURNISHED OUT-** 8 **SIDE THE HOME AS OPTIONAL BENEFIT.**

9 (a) IN GENERAL.—Section 1905(a) (42 U.S.C.  
10 1396d(a)), as amended by subsection (b), is amended—

11 (1) in paragraph (7), by striking “including  
12 personal care services” and all that follows through  
13 “nursing facility”;

14 (2) in paragraph (23), by striking “and” at the  
15 end;

16 (3) by redesignating paragraph (24) as para-  
17 graph (25); and

18 (4) by inserting after paragraph (23) the fol-  
19 lowing new paragraph:

20 “(24) personal care services furnished to an in-  
21 dividual who is not an inpatient or resident of a  
22 nursing facility or other medical institution that are  
23 (A) authorized by a physician for the individual in  
24 accordance with a plan of treatment, (B) provided  
25 by an individual who is qualified to provide such

1 services and who is not a member of the individual's  
2 family, (C) supervised by a registered nurse, and  
3 (D) furnished in a home or other location; and”.

4 (b) REDESIGNATIONS TO PARAGRAPHS ADDED BY  
5 OBRA-1990.—Section 1905(a) (42 U.S.C. 1396d(a)) is  
6 amended—

7 (1) by striking “and” at the end of paragraph  
8 (21);

9 (2) in paragraph (24), by striking the comma  
10 at the end and inserting “; and”; and

11 (3) by redesignating paragraphs (22), (23), and  
12 (24) as paragraphs (24), (22), and (23), respec-  
13 tively, and by transferring and inserting paragraph  
14 (24), as so redesignated, after paragraph (23), as so  
15 redesignated.

16 (c) CONFORMING AMENDMENTS.—(1) Section  
17 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)) is  
18 amended by striking “through (21)” and inserting  
19 “through (24)”.

20 (2) Section 1902(j) (42 U.S.C. 1396a(j)) is amended  
21 by striking “through (22)” and inserting “through (25)”.

22 (d) EFFECTIVE DATE.—The amendments made by  
23 this section shall take effect as if included in the enact-  
24 ment of OBRA-1990.

**Subpart B—Outpatient Prescription Drugs****SEC. 7411. PERMITTING PRESCRIPTION DRUG  
FORMULARIES UNDER STATE PLANS.**

(a) ELIMINATION OF PROHIBITION AGAINST USE OF FORMULARIES.—Paragraph (54) of section 1902(a) (42 U.S.C. 1396a(a)) is amended to read as follows:

“(54) in the case of a State plan that provides medical assistance for covered outpatient drugs (as defined in section 1927(k)), comply with the applicable requirements of section 1927;”.

(b) STANDARDS FOR FORMULARIES.—Section 1927(d) (42 U.S.C. 1396r–8(d)), as amended by section 7412(a), is amended—

(1) by adding at the end of paragraph (1) the following new subparagraph:

“(C) In the case of a State that establishes a formulary in accordance with paragraph (6), the State may exclude coverage of a covered outpatient drug that is not included in the formulary.”; and

(2) by inserting after paragraph (5) the following new paragraph:

“(6) REQUIREMENTS FOR FORMULARIES.—A State may establish a formulary only if the following requirements are met:

“(A) The formulary is developed by a committee consisting of physicians, pharmacists,

1 and other appropriate individuals appointed by  
2 the Governor of the State or, at the option of  
3 the State, the State's drug use review board es-  
4 tablished under subsection (g)(3).

5 “(B) The formulary includes each covered  
6 outpatient drug of a manufacturer which has  
7 entered into and complies with an agreement  
8 under subsection (a) unless the drug is con-  
9 tained in the list referred to in paragraph (2)  
10 or excluded in accordance with subparagraph  
11 (C).

12 “(C)(i) The committee may exclude a cov-  
13 ered outpatient drug with respect to the treat-  
14 ment of a specific disease or condition for an  
15 identified population (if any) only if the com-  
16 mittee finds that the excluded drug does not  
17 have a significant, clinically meaningful thera-  
18 peutic advantage in terms of safety, effective-  
19 ness, or clinical outcome of such treatment for  
20 such population over other drugs included in  
21 the formulary.

22 “(ii) The committee's finding under clause  
23 (i) shall be based on—

24 “(I) the drug's labeling, or

1           “(II) in the case of a drug the pre-  
2           scribed use of which is not approved under  
3           the Federal Food, Drug, and Cosmetic Act  
4           but is a medically accepted indication, on  
5           information from the appropriate compen-  
6           dia described in subsection (k)(6).

7           “(D) With respect to a recommendation to  
8           exclude a covered outpatient drug from the for-  
9           mulary or to exclude a prescribed use of such  
10          a drug, the committee issues a written expla-  
11          nation of its recommendation that is available  
12          to the public.

13          “(E) The State plan permits coverage of a  
14          drug excluded from the formulary pursuant to  
15          a prior authorization program that is consistent  
16          with paragraph (5) unless the drug is contained  
17          in the list referred to in paragraph (2).

18          “(F) The formulary meets such other re-  
19          quirements as the Secretary may impose.”.

20          (c) EFFECTIVE DATE.—The amendments made by  
21          this section shall apply to calendar quarters beginning on  
22          or after October 1, 1993, without regard to whether or  
23          not regulations to carry out such amendments have been  
24          promulgated by such date.

1 **SEC. 7412. ELIMINATION OF SPECIAL EXEMPTION FROM**  
2 **PRIOR AUTHORIZATION FOR NEW DRUGS.**

3 (a) IN GENERAL.—Section 1927(d) (42 U.S.C.  
4 1396r–8(d)) is amended by striking paragraph (6).

5 (b) CONFORMING AMENDMENT.—(1) Section  
6 1927(d)(1)(A) (42 U.S.C. 1396r–8(d)(1)(A)) is amended  
7 by striking “Except as provided in paragraph (6), a State”  
8 and inserting “A State”.

9 (2) Section 1927(d)(3) (42 U.S.C. 1396r–8(d)(3)) is  
10 amended by striking “(except with respect” and all that  
11 follows through “of this paragraph)”.

12 (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to calendar quarters beginning on  
14 or after October 1, 1993, without regard to whether or  
15 not regulations to carry out such amendments have been  
16 promulgated by such date.

17 **SEC. 7413. MODIFICATIONS TO DRUG REBATE PROGRAM.**

18 (a) ELIMINATION OF ADDITIONAL REBATE BASED  
19 ON WEIGHTED AVERAGE MANUFACTURER PRICE.—Para-  
20 graph (2) of section 1927(c) (42 U.S.C. 1396r–8(c)) is  
21 amended to read as follows:

22 “(2) ADDITIONAL REBATE FOR SINGLE SOURCE  
23 AND INNOVATOR MULTIPLE SOURCE DRUGS.—

24 “(A) IN GENERAL.—The amount of the re-  
25 bate for a calendar quarter with respect to each  
26 dosage form and strength of a single source

1 drug or an innovator multiple source drug, is  
2 increased by an amount equal to the product  
3 of—

4 “(i) the total number of dosage units  
5 dispensed after December 31, 1990, for  
6 which payment was made under the State  
7 plan for the period reported by the State  
8 under subsection (b)(2), and

9 “(ii) the amount (if any) by which—

10 “(I) the average manufacturer  
11 price for the dosage form and  
12 strength of the drug for the period,  
13 exceeds

14 “(II) the average manufacturer  
15 price for such dosage form and  
16 strength for the calendar quarter be-  
17 ginning July 1, 1990, increased by the  
18 percentage by which the average of  
19 the consumer price indices for all  
20 urban consumers (U.S. city average)  
21 for months during the calendar quar-  
22 ter exceeds such index for September  
23 1990.

24 “(B) SPECIAL RULE.—In the case of a  
25 covered outpatient drug approved by the Food

1 and Drug Administration after October 1,  
2 1990, subclause (II) of subparagraph (A)(ii)  
3 shall be applied by substituting ‘the first full  
4 calendar quarter after the drug was marketed’  
5 for ‘the calendar quarter beginning July 1,  
6 1990’ and ‘the month prior to the first month  
7 of the first full calendar quarter after the drug  
8 was marketed’ for ‘September 1990’.”.

9 (b) BASE DATE FOR COVERED OUTPATIENT DRUG  
10 SOLD OR TRANSFERRED.—Paragraph (2) of section  
11 1927(c) (42 U.S.C. 1396r–8(c)), as amended by sub-  
12 section (a), is amended by adding at the end the following  
13 new subparagraph:

14 “(C) BASE DATE FOR COVERED OUT-  
15 PATIENT DRUG SOLD OR TRANSFERRED.—For  
16 purposes of computing the additional rebate  
17 under this paragraph for any covered outpatient  
18 drug that is sold or transferred to any entity,  
19 including a division or subsidiary of a manufac-  
20 turer, the base date for such drug after such  
21 sale or transfer shall be the original base date  
22 established for such drug.”.

23 (c) MAXIMUM ALLOWABLE COST LIMITATIONS.—  
24 Section 1927 (42 U.S.C. 1396r–8) is amended by adding  
25 at the end the following new subsection:



1       “(3) The State agency shall establish procedures (in  
2 accordance with standards specified by the Secretary)  
3 under which the agency shall waive the application of this  
4 subsection if such application would work an undue hard-  
5 ship as determined on the basis of criteria established by  
6 the Secretary.”.

7       (c) DEFINITION OF ESTATE.—Section 1917(b) (42  
8 U.S.C. 1396p(b)), as amended by subsection (b), is  
9 amended by adding at the end the following new para-  
10 graph:

11       “(4) DEFINITION.—For purposes of this section, the  
12 term ‘estate’, with respect to a deceased individual—

13               “(A) shall include all real and personal property  
14 and other assets included within the individual’s es-  
15 tate, as defined for purposes of State law with re-  
16 spect to inheritance, and

17               “(B) may include, at the option of the State,  
18 any or all other real or personal property or other  
19 assets in which the individual had any legal title or  
20 interest at the time of death, including such assets  
21 conveyed to a survivor, heir, or assign of the de-  
22 ceased individual through joint tenancy, tenancy in  
23 common, survivorship, life estate, living trust, or  
24 other arrangement.”.

1       (d) EFFECTIVE DATE.—(1)(A) Except as provided in  
2 subparagraph (B), the amendments made by this section  
3 shall apply to payments under title XIX of the Social Se-  
4 curity Act for calendar quarters beginning on or after Oc-  
5 tober 1, 1993.

6       (B) In the case of a State plan for medical assistance  
7 under title XIX of the Social Security Act which the Sec-  
8 retary of Health and Human Services determines requires  
9 State legislation (other than legislation appropriating  
10 funds) in order for the plan to meet the additional require-  
11 ments imposed by the amendments made by this section,  
12 the State plan shall not be regarded as failing to comply  
13 with the requirements imposed by such amendments solely  
14 on the basis of its failure to meet these additional require-  
15 ments before the first day of the first calendar quarter  
16 beginning after the close of the first regular session of the  
17 State legislature that begins after the date of the enact-  
18 ment of this Act. For purposes of the preceding sentence,  
19 in the case of a State that has a 2-year legislative session,  
20 each year of such session shall be deemed to be a separate  
21 regular session of the State legislature.

22       (2) The amendments made by this section shall not  
23 apply to individuals who died before October 1, 1993.

1 **SEC. 7422. TRANSFERS OF ASSETS.**

2 (a) MANDATORY AND OPTIONAL PERIODS OF INELI-  
3 GIBILITY.—Section 1917(c) (42 U.S.C. 1396p(c)) is  
4 amended—

5 (1) by amending paragraph (1) to read as fol-  
6 lows:

7 “(1)(A) In order to meet the requirements of this  
8 subsection for purposes of section 1902(a)(18), the State  
9 plan shall provide that any institutionalized individual (or  
10 the spouse of such individual) who disposes of assets for  
11 less than fair market value on the date specified in sub-  
12 paragraph (B)(ii), or at any time thereafter during such  
13 individual’s lifetime, is ineligible for medical assistance  
14 for—

15 “(i) nursing facility services,

16 “(ii) a level of care in any institution equivalent  
17 to that of nursing facility services, and

18 “(iii) home or community-based services under  
19 subsection (c) or (d) of section 1915,

20 during any and all applicable periods specified in para-  
21 graph (2).

22 “(B)(i) The date specified in this clause, with respect  
23 to an institutionalized individual, is the first date as of  
24 which the individual—

25 “(I) is an institutionalized individual, and

1           “(II) has applied for or is receiving medical as-  
2           sistance under the State plan.

3           “(ii) The date specified in this clause, with respect  
4 to an institutionalized individual, is the date 30 months  
5 before the date specified in clause (i) (or, at the option  
6 of the State, such earlier date as provided by the State  
7 in accordance with paragraph (3)(A)(iii)).”;

8           (2) by redesignating paragraphs (2) through  
9           (5) as paragraphs (4) through (7) and by inserting  
10          after paragraph (1) the following new paragraphs:

11          “(2) The period of ineligibility required under para-  
12 graph (1) with respect to an institutionalized individual—

13           “(A) shall be a number of months equal to—

14           “(i) the total uncompensated value of all  
15           assets transferred by the individual or the indi-  
16           vidual’s spouse on or after the date specified in  
17           paragraph (1)(B)(ii), divided by

18           “(ii) the average cost to a private patient  
19           of nursing facility services in the State (or, at  
20           the option of the State, in the community in  
21           which the individual is institutionalized) on the  
22           date specified in paragraph (1)(B)(i) based on  
23           costs which include the cost of services included  
24           in the State’s nursing facility reimbursement  
25           rate; and

1           “(B) shall begin with the first month in  
2           which—

3           “(i) the individual—

4                   “(I) is an institutionalized individual,

5                   “(II) is (or but for the provisions of  
6                   this subsection would be) entitled to have  
7                   medical assistance paid under the State  
8                   plan for services specified under paragraph  
9                   (1), and

10                   “(III) is receiving or is an applicant  
11                   for such medical assistance, and

12                   “(ii) the State has become aware that as-  
13                   sets have been transferred.

14           “(3)(A) The State plan may include, in accordance  
15           with this paragraph, any or all of the following provisions  
16           concerning eligibility for medical assistance of individuals  
17           who (or whose spouses) dispose of assets for less than fair  
18           market value:

19                   “(i) The State plan may provide for periods of  
20                   ineligibility for medical assistance for long-term care  
21                   services specified by the State and approved by the  
22                   Secretary for any or all individuals (or groups of in-  
23                   dividuals) otherwise eligible for such medical assist-  
24                   ance, in addition to the individuals specified in para-  
25                   graph (1).

1           “(ii) Subject to such restrictions as the Sec-  
2           retary may impose, the State plan may provide for  
3           periods of ineligibility for medical assistance for any  
4           long-term care services (in addition to the services  
5           specified in paragraph (1)(A)) for which medical as-  
6           sistance is otherwise available under the plan.

7           “(iii) The State plan may provide for a date on  
8           and after which transfers of assets are subject to re-  
9           view earlier than the date specified in paragraph  
10          (1)(B)(ii), but not earlier than 4 years before—

11                   “(I) in the case of an institutionalized indi-  
12                   vidual, the date specified in paragraph  
13                   (1)(B)(i), or

14                   “(II) in the case of any other individual,  
15                   the date on which the individual applied for  
16                   medical assistance under the State plan.

17          “(B)(i) The period of ineligibility imposed by the  
18          State pursuant to this paragraph for services other than  
19          those specified in paragraph (1)(A) shall not be longer  
20          than the period of ineligibility that would have resulted  
21          if the individual had expended the assets transferred for  
22          the costs of medical care furnished on and after the date  
23          the individual applied for medical assistance, as deter-  
24          mined by the State in accordance with clause (ii).

1       “(ii) In determining the period of ineligibility of an  
2 individual pursuant to clause (i), the State—

3           “(I) may presume that the individual’s cost of  
4 medical care furnished is equal to the average cost  
5 to a private patient for such care on a daily, month-  
6 ly, or other basis, or

7           “(II) may use any other method approved by  
8 the Secretary.”;

9       (3) in paragraph (4), as redesignated—

10           (A) by amending subparagraph (B) to read  
11 as follows:

12           “(B) the resources—

13               “(i) were transferred to the individual’s  
14 spouse or to another for the sole benefit of the  
15 individual’s spouse and did not exceed the  
16 amount permitted under section 1924(f)(1);

17               “(ii) were transferred from the individual’s  
18 spouse to another for the sole benefit of the in-  
19 dividual’s spouse and did not exceed the  
20 amount permitted under section 1924(f)(1); or

21               “(iii) were transferred to the individual’s  
22 child described in subparagraph (A)(ii)(II);”;

23           (B) in subparagraph (C)—

24               (i) by striking “any”;

1 (ii) by striking “or (ii)” and inserting  
2 “(ii)”; and

3 (iii) by striking “; or” and inserting “,  
4 or (iii) all assets transferred by an individ-  
5 ual for less than fair market value have  
6 been returned to the individual;”;

7 (C) by amending subparagraph (D) to read  
8 as follows:

9 “(D) the State determines (in accordance with  
10 regulations promulgated by the Secretary) that de-  
11 nial of eligibility would work an undue hardship;  
12 or”;

13 (D) by adding at the end the following new  
14 subparagraph:

15 “(E) the State determines that the total fair  
16 market value of all of the assets transferred by the  
17 individual during the period between the date speci-  
18 fied in paragraph (1)(B)(i) and the date specified by  
19 the State under paragraph (1)(B)(ii) are below an  
20 amount determined appropriate by the State and ap-  
21 proved by the Secretary.”; and

22 (E) by adding at the end the following  
23 flush sentence:

24 “In determining whether an individual has made a satis-  
25 factory showing to the State under subparagraph (C)(ii),

1 the State shall consider the individual's health status at  
2 the time of the transfer of assets and whether, at the time  
3 of such transfer, the individual retained assets sufficient  
4 to meet the individual's foreseeable future health care  
5 needs based on such health status.”;

6 (4) by striking paragraph (5), as redesignated,  
7 and inserting the following:

8 “(5) For purposes of this subsection, in the case of  
9 an asset held by an individual in common with another  
10 person or persons in a joint tenancy, tenancy in common,  
11 or similar arrangement, the asset (or the affected portion  
12 of such asset) shall be considered to be transferred by such  
13 individual when any action is taken, either by such individ-  
14 ual or by any other person, that reduces or eliminates such  
15 individual's ownership or control of such asset, except to  
16 the extent an action taken by a person other than the indi-  
17 vidual is an action consistent with partial ownership of  
18 the asset, as provided in regulations issued by the Sec-  
19 retary.”;

20 (5) by adding the following at the end of para-  
21 graph (6), as redesignated: “In the case of a trans-  
22 fer by the spouse of an institutionalized individual  
23 which results in a period of ineligibility for medical  
24 assistance under a State plan for the institutional-  
25 ized individual, a State shall apply a reasonable

1 methodology to transfer all or a portion of any such  
2 period of ineligibility to such spouse if the spouse be-  
3 comes an institutionalized individual.”; and

4 (6) by amending paragraph (7), as redesign-  
5 nated, to read as follows:

6 “(7) For purposes of this subsection:

7 “(A) The term ‘assets’, with respect to an indi-  
8 vidual, includes all income and resources of the indi-  
9 vidual and of the individual’s spouse, including any  
10 income or resources which the individual or such in-  
11 dividual’s spouse is entitled to but does not receive  
12 because of action—

13 “(i) by the individual or such individual’s  
14 spouse,

15 “(ii) by a person, including a court or ad-  
16 ministrative body, with legal authority to act in  
17 place of or on behalf of the individual or such  
18 individual’s spouse, or

19 “(iii) by any person, including any court or  
20 administrative body, acting at the direction or  
21 upon the request of the individual or such indi-  
22 vidual’s spouse.

23 “(B) The term ‘income’ has the meaning given  
24 such term in section 1612.

1           “(C) The term ‘resources’ has the meaning  
2           given such term in section 1613, without regard (in  
3           the case of an institutionalized individual) to the ex-  
4           clusion described in subsection (a)(1) of such sec-  
5           tion.

6           “(D) The term ‘institutionalized individual’  
7           means, and the term ‘individual is institutionalized’  
8           refers to, an individual receiving any of the services  
9           specified in paragraph (1)(A).”.

10          (b) CONFORMING AMENDMENTS.—(1) Section  
11 1902(a)(51) (42 U.S.C. 1396a(a)(51)) is amended—

12           (A) by striking “(A)”; and

13           (B) by striking “, and (B)” and all that follows  
14           and inserting a semicolon.

15          (2) Section 1924(f)(1) (42 U.S.C. 1396r-5(f)(1)) is  
16          amended by striking “transfer an amount” and inserting  
17          “transfer an amount sufficient to make the resources of  
18          the community spouse”.

19          (c) REQUIREMENTS FOR NURSING FACILITIES.—

20           (1)           MEDICAID           PROGRAM.—Section  
21          1919(c)(5)(A)(i) (42 U.S.C. 1396r(c)(5)(A)(i)) is  
22          amended by striking “and (III)” and inserting “(III)  
23          not require individuals applying to reside or residing  
24          in the facility, or family members of such individ-  
25          uals, to provide any financial information other than

1 to identify the source of payment for such individ-  
2 ual's stay in the facility, and (IV)''.

3 (2) MEDICARE PROGRAM.—Section  
4 1819(c)(5)(A)(i) (42 U.S.C. 1395i-3(c)(5)(A)(i)) is  
5 amended by striking “and (III)” and inserting “(III)  
6 not require individuals applying to reside or residing  
7 in the facility, or family members of such individ-  
8 uals, to provide any financial information other than  
9 to identify the source of payment for such individ-  
10 ual's stay in the facility, and (IV)''.

11 (d) EFFECTIVE DATE.—(1)(A) Except as provided in  
12 subparagraph (B), the amendments made by this section  
13 shall apply to calendar quarters beginning on or after Oc-  
14 tober 1, 1993.

15 (B) In the case of a State plan for medical assistance  
16 under title XIX of the Social Security Act which the Sec-  
17 retary of Health and Human Services determines requires  
18 State legislation (other than legislation appropriating  
19 funds) in order for the plan to meet the additional require-  
20 ments imposed by the amendments made by this section,  
21 the State plan shall not be regarded as failing to comply  
22 with the requirements imposed by such amendments solely  
23 on the basis of its failure to meet these additional require-  
24 ments before the first day of the first calendar quarter  
25 beginning after the close of the first regular session of the

1 State legislature that begins after the date of the enact-  
2 ment of this Act. For purposes of the preceding sentence,  
3 in the case of a State that has a 2-year legislative session,  
4 each year of such session shall be deemed to be a separate  
5 regular session of the State legislature.

6 (2) The amendments made by this section shall not  
7 apply with respect to assets disposed of before the date  
8 which is 60 days after the date of the enactment of this  
9 Act.

10 **SEC. 7423. TREATMENT OF CERTAIN TRUSTS.**

11 (a) IN GENERAL.—Section 1917 (42 U.S.C. 1396p)  
12 is amended by adding at the end the following:

13 “(d)(1) For purposes of determining an individual’s  
14 eligibility for, or amount of, benefits under a State plan  
15 under this title, the following rules shall apply to a trust  
16 established by such individual:

17 “(A) In the case of a revocable trust—

18 “(i) the corpus of the trust shall be consid-  
19 ered resources available to the individual,

20 “(ii) payments from the trust to or for the  
21 benefit of the individual shall be considered in-  
22 come of the individual, and

23 “(iii) any other payments from the trust  
24 shall be considered a transfer of assets by the  
25 individual subject to subsection (c).

1 “(B) In the case of an irrevocable trust—

2 “(i) the portion of the corpus from which,  
3 or the income on the corpus from which, pay-  
4 ment to the individual could be made shall be  
5 considered resources available to the individual,  
6 and payments from that portion of the corpus  
7 or income—

8 “(I) to or for the benefit of the indi-  
9 vidual, shall be considered income of the  
10 individual, and

11 “(II) for any other purpose, shall be  
12 considered a transfer of assets by the indi-  
13 vidual subject to subsection (c); and

14 “(ii) any portion of the trust from which,  
15 or any income on the corpus from which, no  
16 payment could under any circumstances be  
17 made to the individual shall be considered, as of  
18 the date of establishment of the trust (or, if  
19 later, the date on which payment to the individ-  
20 ual was foreclosed) a transfer of assets by the  
21 individual subject to subsection (c), and pay-  
22 ments from such portion of the trust after such  
23 date shall be disregarded.

24 “(2)(A) For purposes of this subsection, an individual  
25 shall be considered to have established a trust if—

1           “(i) any of the following individuals established  
2 such trust other than by will:

3           “(I) the individual,

4           “(II) the individual’s spouse,

5           “(III) a person, including a court or ad-  
6 ministrative body, with legal authority to act in  
7 place of or on behalf of the individual or the in-  
8 dividual’s spouse, or

9           “(IV) a person, including any court or ad-  
10 ministrative body, acting at the direction or  
11 upon the request of the individual or the indi-  
12 vidual’s spouse; and

13           “(ii) assets of the individual were used to form  
14 all or part of the corpus of the trust.

15           “(B) In the case of a trust the corpus of which in-  
16 cludes assets of an individual (as determined under sub-  
17 paragraph (A)) and assets of any other person or persons,  
18 the provisions of this subsection shall apply to the portion  
19 of the trust attributable to the assets of the individual.

20           “(3) This subsection shall apply without regard to—

21           “(A) the purposes for which a trust is estab-  
22 lished,

23           “(B) whether the trustees have or exercise any  
24 discretion under the trust,

1           “(C) any restrictions on when or whether dis-  
2 tributions may be made from the trust, or

3           “(D) any restrictions on the use of distributions  
4 from the trust.

5           “(4)(A) This subsection shall not apply to any of the  
6 following trusts:

7           “(i) A trust containing the assets of a disabled  
8 individual (as determined under section 1614(a)(3))  
9 established for the benefit of such individual by a  
10 parent, grandparent, legal guardian of the individ-  
11 ual, or a court if the State will receive all amounts  
12 remaining in the trust upon the death of such indi-  
13 vidual up to an amount equal to the total medical  
14 assistance received by the individual under a State  
15 plan under this title.

16           “(ii) A trust established in a State for the bene-  
17 fit of an individual if—

18                   “(I) the trust is composed only of pension,  
19 Social Security, and other income to the indi-  
20 vidual (and accumulated income in the trust),

21                   “(II) the State will receive all amounts re-  
22 maining in the trust upon the death of such in-  
23 dividual up to an amount equal to the total  
24 medical assistance received by the individual  
25 under a State plan under this title, and

1           “(III) the State makes medical assistance  
2           available to individuals described in section  
3           1902(a)(10)(A)(ii)(V), but does not make such  
4           assistance available to individuals for nursing  
5           facility services under section 1902(a)(10)(C).

6           “(B) For purposes of this subsection, the term ‘trust’  
7           includes any legal instrument or device that is similar to  
8           a trust but includes an annuity only to such extent and  
9           in such manner as the Secretary specifies.

10          “(C) The State agency shall establish procedures (in  
11          accordance with standards specified by the Secretary)  
12          under which the agency waives the application of this sub-  
13          section with respect to an individual if the individual es-  
14          tablishes that such application would work an undue hard-  
15          ship on the individual as determined on the basis of cri-  
16          teria established by the Secretary.

17          “(5) For purposes of this subsection, the terms ‘as-  
18          sets’, ‘income’, and ‘resources’ shall have the meaning  
19          given to such terms under subsection (c)(7).”.

20          (b) CONFORMING AMENDMENTS.—(1) Section  
21          1902(a)(18) (42 U.S.C. 1396a(a)(18)) is amended by  
22          striking “and transfers of assets” and inserting “, trans-  
23          fers of assets, and treatment of certain trusts”.

24          (2) Section 1902 (42 U.S.C. 1396a) is amended by  
25          repealing subsection (k).

1 (c) EFFECTIVE DATE.—(1)(A) Except as provided in  
2 subparagraph (B), the amendments made by this section  
3 shall apply to payments under title XIX of the Social Se-  
4 curity Act for calendar quarters beginning on or after Oc-  
5 tober 1, 1993.

6 (B) In the case of a State plan for medical assistance  
7 under title XIX of the Social Security Act which the Sec-  
8 retary of Health and Human Services determines requires  
9 State legislation (other than legislation appropriating  
10 funds) in order for the plan to meet the additional require-  
11 ments imposed by the amendments made by this section,  
12 the State plan shall not be regarded as failing to comply  
13 with the requirements imposed by such amendments solely  
14 on the basis of its failure to meet these additional require-  
15 ments before the first day of the first calendar quarter  
16 beginning after the close of the first regular session of the  
17 State legislature that begins after the date of the enact-  
18 ment of this Act. For purposes of the preceding sentence,  
19 in the case of a State that has a 2-year legislative session,  
20 each year of such session shall be deemed to be a separate  
21 regular session of the State legislature.

22 (2) The amendments made by this section shall not  
23 apply with respect to trusts established before the date  
24 which is 60 days after the date of the enactment of this  
25 Act.

1       **Subpart D—Improvement in Identification and**  
2                   **Collection of Third Party Payments**

3       **SEC. 7431. LIABILITY OF THIRD PARTIES TO PAY FOR CARE**  
4                   **AND SERVICES.**

5           (a) LIABILITY OF ERISA PLANS.—(1) Section  
6 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended  
7 by striking “insurers)” and inserting “insurers, group  
8 health plans (as defined in section 607(1) of the Employee  
9 Retirement Income Security Act of 1974), service benefit  
10 plans, and health maintenance organizations)”.

11          (2) Section 1903(o) (42 U.S.C. 1396b(o)) is amended  
12 by striking “regulation)” and inserting “regulation and in-  
13 cluding a group health plan (as defined in section 607(1)  
14 of the Employee Retirement Income Security Act of  
15 1974)), a service benefit plan, and a health maintenance  
16 organization”.

17          (b) REQUIRING STATE TO PROHIBIT INSURERS  
18 FROM TAKING MEDICAID STATUS INTO ACCOUNT.—Sec-  
19 tion 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

20               (1) by striking “and” at the end of subpara-  
21 graph (F);

22               (2) by adding “and” at the end of subpara-  
23 graph (G); and

24               (3) by adding after subparagraph (G) the fol-  
25 lowing new subparagraph:

1           “(H) assurances satisfactory to the Sec-  
2           retary that the State has in effect laws which  
3           prohibit any health insurer (including a group  
4           health plan, as defined in section 607(1) of the  
5           Employee Retirement Income Security Act of  
6           1974, a service benefit plan, and a health main-  
7           tenance organization), in enrolling an individual  
8           or in making any payments for benefits to the  
9           individual or on the individual’s behalf, from  
10          taking into account that the individual is eligi-  
11          ble for or is provided medical assistance under  
12          a plan under this title for such State, or any  
13          other State;”.

14          (c) STATE RIGHT TO THIRD PARTY PAYMENTS FOR  
15          RECIPIENT.—Section 1902(a)(25) (42 U.S.C.  
16          1396a(a)(25)), as amended by subsection (b), is amend-  
17          ed—

18                 (1) by striking “and” at the end of subpara-  
19                 graph (G);

20                 (2) by adding “and” at the end of subpara-  
21                 graph (H); and

22                 (3) by adding after subparagraph (H) the fol-  
23                 lowing new subparagraph:

24                         “(I) assurances satisfactory to the Sec-  
25                         retary that the State has in effect laws under

1           which, to the extent that payment has been  
2           made under the State plan for medical assist-  
3           ance for health care items or services furnished  
4           to an individual, the State is considered to have  
5           acquired the rights of such individual to pay-  
6           ment by any other party for such health care  
7           items or services;”.

8           (d) EFFECTIVE DATE.—(1) Except as provided in  
9           paragraph (2), the amendments made by subsections  
10          (a)(1), (b), and (c) shall apply to calendar quarters begin-  
11          ning on or after October 1, 1993, without regard to wheth-  
12          er or not final regulations to carry out such amendments  
13          have been promulgated by such date.

14          (2) In the case of a State plan for medical assistance  
15          under title XIX of the Social Security Act which the Sec-  
16          retary of Health and Human Services determines requires  
17          State legislation (other than legislation appropriating  
18          funds) in order for the plan to meet the additional require-  
19          ments imposed by the amendments made by subsections  
20          (a) and (b), the State plan shall not be regarded as failing  
21          to comply with the requirements of such title solely on the  
22          basis of its failure to meet these additional requirements  
23          before the first day of the first calendar quarter beginning  
24          after the close of the first regular session of the State leg-  
25          islature that begins after the date of the enactment of this

1 Act. For purposes of the preceding sentence, in the case  
2 of a State that has a 2-year legislative session, each year  
3 of such session shall be deemed to be a separate regular  
4 session of the State legislature.

5 (3) The amendment made by subsection (a)(2) shall  
6 apply to items and services furnished on or after October  
7 1, 1993.

8 **SEC. 7432. MEDICAL CHILD SUPPORT.**

9 (a) STATE PLAN REQUIREMENT.—Section 1902(a)  
10 (42 U.S.C. 1396a(a)), as amended by subsection (c), is  
11 amended—

12 (1) by striking “and” at the end of paragraph  
13 (58);

14 (2) by striking the period at the end of para-  
15 graph (59) and inserting “; and”; and

16 (3) by adding at the end the following new  
17 paragraph:

18 “(60) provide that the State agency shall pro-  
19 vide assurances satisfactory to the Secretary that  
20 the State has in effect the laws relating to medical  
21 child support required under section 1908.”.

22 (b) MEDICAL CHILD SUPPORT LAWS.—Title XIX  
23 (42 U.S.C 1936 et seq.) is amended by inserting after sec-  
24 tion 1907 the following new section:



1           “(B) if such a parent fails to provide such  
2 health insurance coverage for any such child, to  
3 enroll such child under such family coverage  
4 upon application by the child’s other parent or  
5 by the State agency administering the program  
6 under this title or part D of title IV.

7           “(3) In any case in which a parent is required  
8 by a court or administrative order to provide health  
9 coverage for a child and the parent is eligible for  
10 family health coverage through an employer doing  
11 business in the State, a law that requires such em-  
12 ployer—

13           “(A) to permit such parent to enroll under  
14 such family coverage any such child who is oth-  
15 erwise eligible for such coverage (without regard  
16 to any enrollment season restrictions and sub-  
17 ject to the requirements under paragraph (1));

18           “(B) if such a parent fails to provide such  
19 health insurance coverage for a child, to enroll  
20 such child under such family coverage upon ap-  
21 plication by the child’s other parent or by the  
22 State agency administering the program under  
23 this title or part D of title IV;

1           “(C) not to disenroll (or eliminate coverage  
2 of) any such child unless the employer is pro-  
3 vided satisfactory written evidence that—

4                   “(i) such court or administrative  
5 order is no longer in effect, or

6                   “(ii) the child is or will be enrolled in  
7 comparable health coverage which will take  
8 effect not later than the effective date of  
9 such disenrollment; and

10           “(D) to withhold from such employee’s  
11 compensation the employee’s share (if any) of  
12 premiums for health coverage and to pay such  
13 share of premiums to the insurer.

14           “(4) A law that prohibits an insurer from im-  
15 posing requirements on a State agency, which has  
16 been assigned the rights of an individual eligible for  
17 medical assistance under this title and covered for  
18 health benefits from the insurer, that are different  
19 from requirements applicable to an agent or assignee  
20 of any other individual so covered.

21           “(5) A law that requires an insurer, in any case  
22 in which a child has health coverage through the in-  
23 surer of a noncustodial parent—

1           “(A) to provide such information to the  
2           custodial parent as may be necessary for the  
3           child to obtain benefits through such coverage;

4           “(B) to permit the custodial parent (or  
5           provider, with the custodial parent’s approval)  
6           to submit claims for covered services without  
7           the approval of the noncustodial parent; and

8           “(C) to make payment on claims submitted  
9           in accordance with subparagraph (B) directly to  
10          such custodial parent, the provider, or the State  
11          agency.

12          “(6) A law that permits the State agency under  
13          this title to garnish the wages, salary, or other em-  
14          ployment income of, and requires withholding  
15          amounts from State tax refunds to, any person  
16          who—

17                 “(A) is required by court or administrative  
18                 order to provide coverage of the costs of health  
19                 services to a child who is eligible for medical as-  
20                 sistance under this title,

21                 “(B) has received payment from a third  
22                 party for the costs of such services to such  
23                 child, but

24                 “(C) has not used such payments to reim-  
25                 burse, as appropriate, either the other parent or

1 guardian of such child or the provider of such  
2 services,  
3 to the extent necessary to reimburse the State agen-  
4 cy for expenditures for such costs under its plan  
5 under this title, but any claims for current or past-  
6 due child support shall take priority over any such  
7 claims for the costs of such services.

8 “(b) SPECIAL RULE.—The Secretary may provide by  
9 regulation for such exceptions to the requirement under  
10 subsection (a)(3) as the Secretary determines necessary  
11 to ensure compliance with the conditions of any order re-  
12 ferred to in such subsection or with the maximum  
13 amounts permitted to be withheld under section 303(b)  
14 of the Consumer Credit Protection Act.

15 “(c) DEFINITION.—For purposes of this subsection,  
16 the term ‘insurer’ includes a group health plan, as defined  
17 in section 607(1) of the Employee Retirement Income Se-  
18 curity Act of 1974, a health maintenance organization,  
19 and an entity offering a service benefit plan.”.

20 (c) REDESIGNATIONS TO PARAGRAPHS ADDED BY  
21 OBRA–1990.—Section 1902(a) (42 U.S.C. 1396a(a)) is  
22 amended—

23 (1) by striking “and” at the end of paragraph  
24 (54);

1           (2) in the paragraph (55) inserted by section  
2           4602(a)(3) of OBRA–1990, by striking the period at  
3           the end and inserting a semicolon;

4           (3) by redesignating the paragraph (55) in-  
5           serted by section 4604(b)(3) of OBRA–1990 as  
6           paragraph (56), by transferring and inserting it  
7           after the paragraph (55) inserted by section  
8           4602(a)(3) of such Act, and by striking the period  
9           at the end and inserting a semicolon;

10          (4) by placing paragraphs (57) and (58), in-  
11          serted by section 4751(a)(1)(C) of OBRA–1990, im-  
12          mediately after paragraph (56), as redesignated by  
13          paragraph (3);

14          (5) in the paragraph (58) inserted by section  
15          4751(a)(1)(C) of OBRA–1990, by striking the pe-  
16          riod at the end and inserting “; and”; and

17          (6) by redesignating the paragraph (58) in-  
18          serted by section 4752(c)(1)(C) of OBRA–1990 as  
19          paragraph (59) and by transferring and inserting it  
20          after the paragraph (58) inserted by section  
21          4751(a)(1)(C) of such Act.

22          (d) EFFECTIVE DATE.—(1) Except as provided in  
23          paragraph (2), the amendments made by this section  
24          apply to calendar quarters beginning on or after April 1,  
25          1994.



1 (A) by redesignating subsections (e), (f),  
2 (g), (h), and (i) as subsections (f), (g), (h), (i),  
3 and (j), respectively; and

4 (B) by adding after subsection (d) the fol-  
5 lowing new subsection:

6 “(e) COLLECTION OF CERTAIN DEBTS OWED TO  
7 STATES.—

8 “(1) IN GENERAL.—Upon receiving notice from  
9 any State under section 1931(b)(1) of the Social Se-  
10 curity Act that a named person owes a legally en-  
11 forceable debt for any payment obligation relating to  
12 medical assistance, the Secretary shall—

13 “(A) reduce the amount of any overpay-  
14 ment payable to such person by the amount of  
15 such debt;

16 “(B) pay the amount by which such over-  
17 payment is reduced under subparagraph (A) to  
18 such State; and

19 “(C) notify the person making such over-  
20 payment that such overpayment has been re-  
21 duced by an amount necessary to satisfy such  
22 debt.

23 “(2) PRIORITIES FOR OFFSET.—Any overpay-  
24 ment by a person shall be reduced pursuant to this  
25 subsection after such overpayment is reduced pursu-

1 ant to subsections (c) and (d) and before such over-  
2 payment is credited to the future liability for tax of  
3 such person pursuant to subsection (b). Any over-  
4 payment by a person shall be applied against any  
5 debts described in paragraph (1) in the order in  
6 which such debts accrued.

7 “(3) NOTICE; PROTECTION OF OTHER PERSONS  
8 FILING JOINT RETURN.—For purposes of this sub-  
9 section, rules similar to the rules described in clause  
10 (i) and the first sentence of clause (ii) of subsection  
11 (d)(3)(B) shall apply.

12 “(4) DEFINITION.—For purposes of this sub-  
13 section, the term ‘medical assistance’ means medical  
14 assistance provided under title XIX of the Social Se-  
15 curity Act.”.

16 (2) CONFORMING AMENDMENT.—Section  
17 6402(f) of the Internal Revenue Code of 1986, as  
18 redesignated, is amended by striking “(c) or (d)”  
19 and inserting “(c), (d), or (e)”.

20 (3) EFFECTIVE DATE.—The amendments made  
21 by this subsection shall be effective for taxable years  
22 beginning after December 31, 1993.

23 (b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

1           (1) STATE PLAN AMENDMENT.—Section  
2 1902(a) (42 U.S.C. 1396a(a)), as amended by sec-  
3 tion 7432, is amended—

4           (A) by striking “and” at the end of para-  
5 graph (59);

6           (B) by striking the period at the end of  
7 paragraph (60) and inserting “; and”; and

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

10           “(61) provide that recovery of any legally en-  
11 forceable debt for any payment obligation relating to  
12 medical assistance provided under this title shall be  
13 made in accordance with a program for the collec-  
14 tion of such debt from State and Federal tax re-  
15 funds in accordance with section 1931.”.

16           (2) PROGRAM FOR COLLECTIONS FROM STATE  
17 AND FEDERAL TAX REFUNDS.—Title XIX (42 U.S.C  
18 1936 et seq.) is amended by adding at the end the  
19 following new section:

20 “COLLECTION OF PAYMENT OBLIGATIONS RELATING TO  
21 MEDICAL ASSISTANCE FROM STATE AND FEDERAL  
22 TAX REFUNDS

23           “SEC. 1931. (a) STATE TAX REFUNDS.—If a State  
24 with a State plan approved under this title has a State  
25 income tax system, such State shall require the State  
26 agency administering the State plan and the State agency

1 responsible for administering the States income tax sys-  
2 tem to develop and implement a program under which any  
3 person determined appropriate by the State agency admin-  
4 istering the State plan who owes a legally enforceable debt  
5 for any payment obligation relating to medical assistance  
6 provided under this title will have withheld an appropriate  
7 amount from any refund otherwise payable to such person  
8 under the State income tax system.

9 “(b) FEDERAL TAX REFUNDS.—

10 “(1) NOTICE TO THE SECRETARY OF THE  
11 TREASURY.—

12 “(A) IN GENERAL.—If a State with a  
13 State plan approved under this title—

14 “(i) implements a program described  
15 in subsection (a), or

16 “(ii) is a State that does not have a  
17 State income tax system,

18 the State agency administering such plan may  
19 provide a notice to the Secretary of the Treas-  
20 ury regarding any person determined appro-  
21 priate by such State agency who owes a legally  
22 enforceable debt for any payment obligation re-  
23 lating to medical assistance provided under this  
24 title and the Secretary of the Treasury shall  
25 withhold an appropriate amount from any re-

1 fund otherwise payable to such person in ac-  
2 cordance with section 6402(e) of the Internal  
3 Revenue Code of 1986 (hereafter in this section  
4 referred to as the 'Code').

5 “(B) REGULATIONS RELATING TO NO-  
6 TICES.—The Secretary of the Treasury shall  
7 issue regulations, after consultation with the  
8 Secretary, which—

9 “(i) prescribe the timing by which  
10 State agencies may submit notices of pay-  
11 ment obligations relating to medical assist-  
12 ance,

13 “(ii) specify the manner in which such  
14 notices must be submitted,

15 “(iii) specify the necessary informa-  
16 tion that must be contained in or accom-  
17 pany such notices,

18 “(iv) specify the minimum payment  
19 obligation relating to medical assistance to  
20 which the offset procedures may be ap-  
21 plied,

22 “(v) specify the fee that a State must  
23 pay to reimburse the Secretary of the  
24 Treasury for the full cost of applying the  
25 offset procedure, and

1           “(vi) provide that the Secretary of the  
2           Treasury will advise the Secretary, not less  
3           frequently than annually, of the States  
4           which have furnished notices under this  
5           subsection, the number of cases in each  
6           State with respect to which such notices  
7           have been furnished, the total amount of  
8           payment obligations sought to be collected  
9           under this subsection by each State, and  
10          the amount of such collections actually  
11          made in the case of each State.

12          “(2) NOTICE.—Prior to notifying the Secretary  
13          of the Treasury under paragraph (1), the State  
14          agency shall send a notice to the person owing the  
15          legally enforceable debt for a payment obligation re-  
16          lating to medical assistance provided under this title  
17          which—

18                 “(A) explains that a withholding may be  
19                 made under 6402(e) of the Code from any re-  
20                 fund otherwise payable to such person,

21                 “(B) instructs the person having the pay-  
22                 ment obligation of the steps which may be  
23                 taken to contest the State’s determination that  
24                 such payment obligation is owed or the amount  
25                 of the payment obligation, and

1           “(C) provides information with respect to  
2           procedures to be followed, in the case of a joint  
3           return, to protect the share of the refund which  
4           may be payable to another person.

5           “(3) EXCESS WITHHOLDING.—In any case in  
6           which an amount was withheld under section  
7           6402(e) of the Code and the State subsequently de-  
8           termines that the amount certified as owing with re-  
9           spect to medical assistance was in excess of the  
10          amount actually owed at the time the amount with-  
11          held is distributed to the State, the State shall pay  
12          the excess amount withheld to the named person de-  
13          termined to have the payment obligation (or, in the  
14          case of amounts withheld on the basis of a joint re-  
15          turn, jointly to the parties filing such return).”.

16          (3) EFFECTIVE DATE.—

17                 (A) IN GENERAL.—The amendments made  
18                 by this paragraph shall apply to calendar quar-  
19                 ters beginning on or after December 31, 1993.

20                 (B) SPECIAL RULE.—In the case of a  
21                 State which the Secretary determines requires  
22                 State legislation (other than legislation author-  
23                 izing or appropriating funds) in order to comply  
24                 with the amendments made by subparagraph  
25                 (A), the State shall not be regarded as failing

1 to comply with such amendments solely on the  
 2 basis of its failure to meet the requirements of  
 3 such amendments before the first day of the  
 4 first calendar quarter beginning after the close  
 5 of the first regular session of the State legisla-  
 6 ture that begins after the date of the enactment  
 7 of this Act. For purposes of the preceding sen-  
 8 tence, in the case of a State that has a 2-year  
 9 legislative session, each year of such session  
 10 shall be deemed to be a separate regular session  
 11 of the State legislature.

12 **Subpart E—Assuring Proper Payments to**  
 13 **Disproportionate Share Hospitals**

14 **SEC. 7441. ASSURING PROPER PAYMENTS TO DISPROPOR-**  
 15 **TIONATE SHARE HOSPITALS.**

16 (a) DISPROPORTIONATE SHARE HOSPITALS RE-  
 17 QUIRED TO PROVIDE MINIMUM LEVEL OF SERVICES TO  
 18 MEDICAID PATIENTS.—Section 1923 (42 U.S.C. 1396r-  
 19 4) is amended—

20 (1) in subsection (a)(1)(A), by striking “re-  
 21 quirement” and inserting “requirements”;

22 (2) in subsection (b)(1), by striking “require-  
 23 ment” and inserting “requirements”;

24 (3) in the heading to subsection (d), by striking  
 25 “REQUIREMENT” and inserting “REQUIREMENTS”;

1           (4) by adding at the end of subsection (d) the  
2 following new paragraph:

3           “(3) No hospital may be defined or deemed as  
4 a disproportionate share hospital under a State plan  
5 under this title or under subsection (b) or (e) of this  
6 section unless the hospital has a medicaid inpatient  
7 utilization rate (as defined in subsection (b)(2)) of  
8 not less than 1 percent.”;

9           (5) in subsection (e)(1)—

10           (A) by striking “and” before “(B)”, and

11           (B) by inserting before the period at the  
12 end the following: “, and (C) the plan meets the  
13 requirement of subsection (d)(3) and such pay-  
14 ment adjustments are made consistent with the  
15 fourth sentence of subsection (c)”;

16           (6) in subsection (e)(2)—

17           (A) in subparagraph (A), by inserting  
18 “(other than the fourth sentence of subsection  
19 (c))” after “(c)”,

20           (B) by striking “and” at the end of sub-  
21 paragraph (A),

22           (C) by striking the period at the end of  
23 subparagraph (B) and inserting “, and”, and

24           (D) by adding at the end the following new  
25 subparagraph:

1           “(C) subsection (d)(3) shall apply.”.

2           (b) LIMITING AMOUNT OF PAYMENT ADJUSTMENTS  
3 FOR STATE OR COUNTY HOSPITALS TO UNCOVERED  
4 COSTS.—Subsection (c) of section 1923 (42 U.S.C.  
5 1396r-4) is amended by adding at the end the following:  
6 “A payment adjustment during a year is not considered  
7 to be consistent with this subsection with respect to a hos-  
8 pital owned or operated by a State (or by an instrumentality  
9 of, or a unit of government within, a State) if the pay-  
10 ment adjustment exceeds the costs incurred during the  
11 year of furnishing hospital services (as determined by the  
12 Secretary and net of payments under this title, other than  
13 under this section, and by uninsured patients) by the hos-  
14 pital to individuals who either are eligible for medical as-  
15 sistance under the State plan or have no health insurance  
16 (or other source of third party coverage) for services pro-  
17 vided during the year. For purposes of the preceding sen-  
18 tence, payments made to a hospital for services provided  
19 to indigent patients made by a State or a unit of local  
20 government within a State shall not be considered to be  
21 a source of third party payment.”.

22           (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to payments to States under sec-  
24 tion 1903(a) of the Social Security Act which are for pay-

1 ments to hospitals made under State plans after the end  
2 of the State fiscal year that ends during 1995.

3 **Subpart F—Anti-Fraud and Abuse Provisions**

4 **SEC. 7451. APPLICATION OF MEDICARE RULES LIMITING**  
5 **CERTAIN PHYSICIAN REFERRALS.**

6 (a) IN GENERAL.—Section 1903(i) (42 U.S.C.  
7 1396b(i)), as amended by subsection (b), is amended—

8 (1) in paragraph (12), by striking “or” at the  
9 end,

10 (2) in paragraph (13), by striking the period at  
11 the end and inserting “; or”, and

12 (3) by inserting after paragraph (13) the fol-  
13 lowing new paragraph:

14 “(14) with respect to any amount expended for  
15 an item or service for which payment would be de-  
16 nied under section 1877(g)(1) if the item or service  
17 were furnished to an individual entitled to benefits  
18 under title XVIII.”.

19 (b) REDESIGNATIONS.—Section 1903(i) (42 U.S.C.  
20 1396b(i)), as amended by section 2(b)(2) of the Medicaid  
21 Voluntary Contribution and Provider-Specific Tax Amend-  
22 ments of 1991, is amended—

23 (1) by redesignating the paragraph (12) in-  
24 serted by section 4752(a)(2) of OBRA–1990 as  
25 paragraph (11), by transferring and inserting it

1 after the paragraph (10) inserted by section  
2 4401(a)(1)(B) of OBRA-1990, and by striking the  
3 period at the end and inserting a semicolon;

4 (2) by redesignating the paragraph (14) in-  
5 serted by section 4752(e) of OBRA-1990 as para-  
6 graph (12), by transferring and inserting it after  
7 paragraph (11), as redesignated by paragraph (2),  
8 and by striking the period at the end and inserting  
9 “; or”; and

10 (3) by redesignating the paragraph (11) in-  
11 serted by section 4801(e)(16)(A) of OBRA-1990 as  
12 paragraph (13) and by transferring and inserting it  
13 after paragraph (12), as redesignated by paragraph  
14 (3), and by striking “; or” and inserting a period.

15 (c) EFFECTIVE DATE.—The amendment made by  
16 subsection (a) shall apply to items and services furnished  
17 on or after October 1, 1993.

## 18 **PART II—OTHER MEDICAID PROVISIONS**

### 19 **SEC. 7501. EXTENSION OF DEMONSTRATION PROJECT ON** 20 **THE EFFECT OF ALLOWING STATES TO EX-** 21 **TEND MEDICAID COVERAGE TO CERTAIN** 22 **LOW-INCOME FAMILIES.**

23 (a) IN GENERAL.—Section 4745 of OBRA-1990 is  
24 amended—

1 (1) in paragraph (1) of subsection (e), by strik-  
2 ing “\$12,000,000 in each of fiscal years 1991, 1992,  
3 and 1993, and to no more than \$4,000,000 in fiscal  
4 year 1994” and inserting “\$40,000,000”; and

5 (2) in paragraph (2) of subsection (f) by strik-  
6 ing “January 1, 1995” and inserting “one year after  
7 the termination of the projects”.

8 (b) EFFECTIVE DATE.—The amendments made by  
9 paragraph (1) shall take effect as if included in the enact-  
10 ment of OBRA-1990.

## 11 **Subtitle C—Income Security** 12 **Programs**

### 13 **SEC. 7601. MATCHING OF STATE ADMINISTRATIVE COSTS.**

14 (a) AFDC MATCHING.—Section 403(a)(3) (42  
15 U.S.C. 603(a)(3)) is amended to read as follows:

16 “(3) in the case of any State, 50 percent of the  
17 total amounts expended during such quarter as  
18 found necessary by the Secretary for the proper and  
19 efficient administration of the State plan, except  
20 that no payment shall be made with respect to  
21 amounts expended in connection with the provision  
22 of any service described in section 2002(a) of this  
23 Act other than services furnished pursuant to sec-  
24 tion 402(g); and”.

1           (b) TERRITORIAL PROGRAMS FOR AGED, BLIND, AND  
2 DISABLED.—Sections 3(a)(4), 1003(a)(3), 1403(a)(3),  
3 and 1603(a)(4) (42 U.S.C. 303(a)(3), 1203(a)(3),  
4 1353(a)(3), and 1383 note) (as in effect as provided by  
5 section 303 of the Social Security Amendments of 1972)  
6 are each amended by striking “the sum of” and all that  
7 follows and inserting “50 percent of the total amounts ex-  
8 pended during such quarter as found necessary by the  
9 Secretary for the proper and efficient administration of  
10 the State plan.”.

11           (c) REQUIREMENTS FOR ATTESTING TO CITIZENSHIP  
12 STATUS.—Paragraph (1)(A) of section 1137(d) (42  
13 U.S.C. 1320b-7(d)) is amended to read as follows:

14           “(1)(A) The State shall require, as a condition  
15 of an individual’s eligibility for benefits under a pro-  
16 gram listed in subsection (b), a declaration in writ-  
17 ing, under penalty of perjury—

18                   “(i) by the individual,

19                   “(ii) in the case in which eligibility for pro-  
20 gram benefits is determined on a family or  
21 household basis, by any adult member of such  
22 individual’s family or household (as applicable),  
23 or

24                   “(iii) in the case of an individual born into  
25 a family or household receiving benefits under

1           such program, by any adult member of such  
2           family or household no later than the next rede-  
3           termination of eligibility of such family or  
4           household following the birth of such individual,  
5           stating whether the individual is a citizen or national  
6           of the United States, and, if that individual is not  
7           a citizen or national of the United States, that the  
8           individual is in a satisfactory immigration status.”.

9           (d) EFFECTIVE DATES.—

10           (1) IN GENERAL.—Except as provided in para-  
11           graph (2), the amendments made by—

12                   (A) subsections (a) and (b) shall be effec-  
13                   tive with respect to calendar quarters beginning  
14                   on or after April 1, 1994, and

15                   (B) subsection (c) shall be effective on and  
16                   after the date of the enactment of this Act.

17           (2) SPECIAL RULE.—In the case of a State  
18           whose legislature meets biennially, and does not have  
19           a regular session scheduled in calendar year 1994,  
20           the amendments made by subsections (a) and (b)  
21           shall be effective no later than the first day of the  
22           first calendar quarter beginning after the close of  
23           the first regular session of the State legislature that  
24           begins after the date of enactment of this Act.

1 **SEC. 7602. STATE PATERNITY ESTABLISHMENT PROGRAMS.**

2 (a) PERFORMANCE STANDARDS FOR STATE PATER-  
3 NITY ESTABLISHMENT PROGRAMS.—Section 452(g) (42  
4 U.S.C. 652(g)) is amended—

5 (1) in paragraph (1)—

6 (A) by striking “1991” and inserting  
7 “1994”;

8 (B) by inserting “is based on reliable data  
9 and” before “equals or exceeds”; and

10 (C) by striking subparagraphs (A), (B),  
11 and (C) and inserting the following new sub-  
12 paragraphs:

13 “(A) 75 percent;

14 “(B) for a State with a paternity establish-  
15 ment percentage of not less than 50 percent but  
16 less than 75 percent for such fiscal year, the  
17 paternity establishment percentage of the State  
18 for the immediately preceding fiscal year plus 3  
19 percentage points; or

20 “(C) for a State with a paternity establish-  
21 ment percentage of less than 50 percent for  
22 such fiscal year, the paternity establishment  
23 percentage of the State for the immediately pre-  
24 ceding fiscal year plus 6 percentage points.”;

25 and

26 (2) in paragraph (2)—

1 (A) by striking “(or under all such plans)”  
2 each place it appears;

3 (B) by inserting “or part (E)” after  
4 “under part A” each place it appears;

5 (C) by striking subparagraph (B) and in-  
6 serting the following new subparagraph:

7 “(B) the term ‘reliable data’ means the  
8 most recent data available which are found by  
9 the Secretary to be reliable for purposes of this  
10 section.”;

11 (D) by inserting “unless paternity is estab-  
12 lished for such child” after “the death of a par-  
13 ent”; and

14 (E) by inserting “or any child with respect  
15 to whom the State agency administering the  
16 plan under part E determines (as provided in  
17 section 454(4)(B)) that it is against the best in-  
18 terest of such child to do so” after “cooperate  
19 under section 402(a)(26)”.

20 (b) STATE PLAN REQUIREMENTS FOR THE ESTAB-  
21 LISHMENT OF PATERNITY.—Section 466(a) (42 U.S.C.  
22 666(a)) is amended—

23 (1) in paragraph (2)—

24 (A) by striking “at the option of the  
25 State,”; and

1 (B) by inserting “or paternity establish-  
2 ment” after “support order issuance and en-  
3 forcement”;

4 (2) in paragraph (5) by adding at the end the  
5 following new subparagraphs:

6 “(C) Procedures for a simple civil process  
7 for voluntarily acknowledging paternity under  
8 which the State must provide that the rights  
9 and responsibilities of acknowledging paternity  
10 are explained and ensure that due process safe-  
11 guards are afforded. Such procedures must in-  
12 clude (i) a hospital-based program for the vol-  
13 untary acknowledgment of paternity during the  
14 period immediately preceding or following the  
15 birth of a child, and (ii) the inclusion of signa-  
16 ture lines on applications for official birth cer-  
17 tificates which, once signed by the father and  
18 the mother, constitute a voluntary acknowledg-  
19 ment of paternity.

20 “(D) Procedures under which the vol-  
21 untary acknowledgment of paternity creates a  
22 rebuttable, or at the option of the State, conclu-  
23 sive presumption of paternity, and under which  
24 such voluntary acknowledgment is admissible as  
25 evidence of paternity.

1           “(E) Procedures under which the voluntary  
2           acknowledgment of paternity must be recog-  
3           nized as a basis for seeking a support order  
4           without first requiring any further proceedings  
5           to establish paternity.

6           “(F) Procedures which provide that (i) any  
7           objection to genetic testing results must be  
8           made in writing within a specified number of  
9           days before any hearing at which such results  
10          may be introduced into evidence, and (ii) if no  
11          objection is made, the test results are admissi-  
12          ble as evidence of paternity without the need  
13          for foundation testimony or other proof of au-  
14          thenticity or accuracy.

15          “(G) Procedures which create a rebuttable  
16          or, at the option of the State, conclusive pre-  
17          sumption of paternity upon genetic testing re-  
18          sults indicating a threshold probability of the  
19          alleged father being the father of the child.

20          “(H) Procedures requiring a default order  
21          to be entered in a paternity case upon a show-  
22          ing of service of process on the defendant and  
23          any additional showing required by State law.”;  
24          and



1           (1) OPTIONAL STATE SUPPLEMENTARY PAY-  
2           MENTS.—Section 1616(d) (42 U.S.C. 1382e(d)) is  
3           amended—

4                   (A) by inserting “(1)” after “(d)”;

5                   (B) by inserting “, plus an administration  
6           fee assessed in accordance with paragraph (2)  
7           and any additional services fee charged in ac-  
8           cordance with paragraph (3)” before the period;  
9           and

10                  (C) by adding after and below the end the  
11           following:

12           “(2)(A) The Secretary shall assess each State an ad-  
13           ministration fee in an amount equal to—

14                   “(i) the number of supplementary payments  
15           made by the Secretary on behalf of the State under  
16           this section for any month in a fiscal year; multi-  
17           plied by

18                   “(ii) the applicable rate for the fiscal year.

19           “(B) As used in subparagraph (A), the term ‘applica-  
20           ble rate’ means—

21                   “(i) for fiscal year 1995, \$1.67;

22                   “(ii) for fiscal year 1996, \$3.33;

23                   “(iii) for fiscal year 1997, \$5.00; and

24                   “(iv) for fiscal year 1998 and each succeeding  
25           fiscal year, \$5.00, or such different rate as the Sec-

1       retary determines pursuant to criteria established in  
2       regulations is appropriate for the State, taking into  
3       account the complexity of the State's supplementary  
4       payment program.

5       “(C) All fees collected pursuant to this paragraph  
6       shall be transferred to the United States at the same time  
7       that amounts for such supplementary payments are re-  
8       quired to be so transferred.

9       “(3)(A) The Secretary shall charge a State an addi-  
10      tional services fee if, at the request of the State, the Sec-  
11      retary provides additional services beyond the level cus-  
12      tomarily provided, in the administration of State supple-  
13      mentary payments pursuant to this section.

14      “(B) The additional services fee shall be in an  
15      amount that the Secretary determines is necessary to  
16      cover all costs (including indirect costs) incurred by the  
17      Federal Government in furnishing the additional services  
18      referred to in subparagraph (A).

19      “(C) The additional services fee shall be payable in  
20      advance or by way of reimbursement.

21      “(4) All administration fees and additional services  
22      fees collected pursuant to this subsection shall be depos-  
23      ited in the general fund of the Treasury of the United  
24      States as miscellaneous receipts.”.

1           (2) MANDATORY STATE SUPPLEMENTARY PAY-  
2           MENTS.—Section 212(b)(3) of Public Law 93-66  
3           (42 U.S.C. 1382 note) is amended—

4                   (A) by inserting “(A)” after “(3)”;

5                   (B) by inserting “, plus an administration  
6           fee assessed in accordance with subparagraph  
7           (B) and any additional services fee charged in  
8           accordance with subparagraph (C)” before the  
9           period; and

10                  (C) by adding after and below the end the  
11           following:

12           “(B)(i) The Secretary shall assess each State an ad-  
13           ministration fee in an amount equal to—

14                   “(I) the number of supplementary payments  
15           made by the Secretary on behalf of the State under  
16           this subsection for any month in a fiscal year; multi-  
17           plied by

18                   “(II) the applicable rate for the fiscal year.

19           “(ii) As used in clause (i), the term ‘applicable rate’  
20           means—

21                   “(I) for fiscal year 1995, \$1.67;

22                   “(II) for fiscal year 1996, \$3.33;

23                   “(III) for fiscal year 1997, \$5.00; and

24                   “(IV) for fiscal year 1998 and each succeeding  
25           fiscal year, \$5.00, or such different rate as the Sec-

1       retary determines pursuant to regulations estab-  
2       lished in regulations is appropriate for the State,  
3       taking into account the complexity of the State's  
4       supplementary payment program.

5       “(iii) All fees collected pursuant to this subparagraph  
6       shall be transferred to the United States at the same time  
7       that amounts for such supplementary payments are re-  
8       quired to be so transferred.

9       “(C)(i) The Secretary shall charge a State an addi-  
10      tional services fee if, at the request of the State, the Sec-  
11      retary provides additional services beyond the level cus-  
12      tomarily provided, in the administration of State supple-  
13      mentary payments pursuant to this subsection.

14      “(ii) The additional services fee shall be in an amount  
15      that the Secretary determines is necessary to cover all  
16      costs (including indirect costs) incurred by the Federal  
17      Government in furnishing the additional services referred  
18      to in clause (i).

19      “(iii) The additional services fee shall be payable in  
20      advance or by way of reimbursement.

21      “(D) All administration fees and additional services  
22      fees collected pursuant to this paragraph shall be depos-  
23      ited in the general fund of the Treasury of the United  
24      States as miscellaneous receipts.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to supplementary payments made  
 3 pursuant to section 1616(a) of the Social Security Act or  
 4 section 212(a) of Public Law 93–66 for any calendar  
 5 month beginning after September 30, 1994, and to serv-  
 6 ices furnished after such date, regardless of whether regu-  
 7 lations to implement such amendments have been promul-  
 8 gated by such date, or whether any agreement entered into  
 9 under such section 1616(a) or such section 212(a) has  
 10 been modified.

## 11 **Subtitle D—Miscellaneous**

### 12 **Provisions**

#### 13 **PART I—TRADE PROVISIONS**

##### 14 **SEC. 7701. EXTENSION OF AUTHORITY TO LEVY CUSTOMS** 15 **USER FEES.**

16 Section 13031(j)(3) of the Consolidated Omnibus  
 17 Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3))  
 18 is amended by striking out “1995” and inserting “1998”.

##### 19 **SEC. 7702. EXTENSION OF, AND AUTHORIZATION OF APPRO-** 20 **PRIATIONS FOR, TRADE ADJUSTMENT AS-** 21 **SISTANCE PROGRAM.**

22 (a) EXTENSION.—Section 285 of the Trade Act of  
 23 1974 (19 U.S.C. 2271, preceding note) is amended—

1 (1) by striking “No” and all that follows  
2 through “and no duty” in subsection (b) and insert-  
3 ing “No duty”; and

4 (2) by adding at the end the following new sub-  
5 section:

6 “(c) No assistance, vouchers, allowances, or other  
7 payments may be provided under chapter 2, and no tech-  
8 nical assistance may be provided under chapter 3, after  
9 September 30, 1998.”.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—

11 (1) CHAPTER 2 ADJUSTMENT ASSISTANCE.—  
12 Section 245 of the Trade Act of 1974 (19 U.S.C.  
13 2317) is amended by striking “1988, 1989, 1990,  
14 1991, 1992, and 1993” and inserting “1993, 1994,  
15 1995, 1996, 1997, and 1998”.

16 (2) CHAPTER 3 ADJUSTMENT ASSISTANCE.—  
17 Section 256(b) of such Act (19 U.S.C. 2346(b)) is  
18 amended by striking “1988, 1989, 1990, 1991,  
19 1992, and 1993” and inserting “1993, 1994, 1995,  
20 1996, 1997, and 1998”.

## 21 **PART II—IMPROVED ACCESS TO CHILDHOOD**

### 22 **IMMUNIZATIONS**

#### 23 **SEC. 7801. FINDINGS AND PURPOSE.**

24 (a) FINDINGS.—

1           (1)    CURRENT    CIRCUMSTANCES.—Congress  
2 finds the following:

3           (A) The measles outbreak which occurred  
4 between 1989 and 1991 resulted in over 55,000  
5 cases, more than 130 deaths, and over 11,000  
6 hospitalizations. The national costs of this epi-  
7 demic are estimated to be over \$150,000,000.

8           (B) Studies have shown that a high per-  
9 centage of unvaccinated children who got the  
10 measles during the outbreak described in sub-  
11 paragraph (A) were participating in the medic-  
12 aid program, resulting in costs to Federal and  
13 State governments. For instance, 45 percent of  
14 the unvaccinated children in Los Angeles who  
15 got the measles, and 75 percent of the  
16 unvaccinated children in New York City who  
17 got the measles, were participating in the med-  
18 icaid program.

19           (C) Immunizations are among the most  
20 cost-effective means of preventing disease.

21           (D) Although Federal support for child-  
22 hood immunizations has been in existence since  
23 1962, the full potential of immunizations re-  
24 mains to be achieved. Enactment and enforce-  
25 ment of school immunization requirements have

1           resulted in excellent immunization levels (96  
2           percent or greater) in school children. However,  
3           approximately 80 percent of vaccine doses  
4           should be received before the second birthday in  
5           order to protect children during their most vul-  
6           nerable periods. Many children do not receive  
7           their basic immunizations by that time, and in  
8           some inner cities as few as 10 percent of 2-  
9           year-olds have received a complete series. This  
10          low level of immunizations has been reflected in  
11          recent years by outbreaks of measles among in-  
12          adequately immunized preschool children.

13                 (E) The childhood immunization services  
14                 delivery infrastructure is both public and pri-  
15                 vate. There is considerable evidence to suggest  
16                 that the private infrastructure has been eroded  
17                 over the past decade as a result of the signifi-  
18                 cantly increased cost of privately purchased vac-  
19                 cines.

20                 (F) High vaccine costs, coupled with the  
21                 growing number of uninsured and underinsured  
22                 families, has resulted in private physicians in-  
23                 creasingly referring their private-pay patients to  
24                 overburdened public clinics for vaccinations.

1 (G) Eleven States now have programs that  
2 provide vaccines without charge to both public  
3 and private health care providers. Other States  
4 that have sought to establish such programs  
5 have been denied additional discounted vaccines  
6 by manufacturers.

7 (H) There is no evidence to suggest that a  
8 negotiated price that takes into account the rea-  
9 sonable cost of production, marketing, research  
10 and development, and distribution will not fairly  
11 compensate vaccine manufacturers.

12 (I) The Secretary of Health and Human  
13 Services has experience negotiating vaccine pur-  
14 chase through the Federal contract system.

15 (J) The National Vaccine Injury Com-  
16 pensation Program is an essential element in a  
17 comprehensive immunization program and  
18 should be applied to additional vaccines rec-  
19 ommended for universal use in children.

20 (K) There have been at least 3 causes for  
21 the high cost of vaccines: price increases, the  
22 introduction of new vaccines, and the establish-  
23 ment of the excise tax on vaccines which funds  
24 the National Vaccine Compensation Program.  
25 The expansion of a central bulk purchasing pro-

1           gram which replaces the current purchase of  
2           vaccines under the medicaid program will help  
3           reduce the cost of vaccines.

4           (2) NEEDED ACTIONS.—With respect to actions  
5           necessary to reduce costs of not immunizing at the  
6           earliest possible age, Congress finds the following:

7                   (A) The Federal Government should pur-  
8                   chase and provide free of charge to health care  
9                   providers vaccines recommended for universal  
10                  use in certain children. This action will not only  
11                  remove financial barriers to immunization that  
12                  impede children from being vaccinated at the  
13                  appropriate time, but will also facilitate the de-  
14                  velopment of an immunization surveillance pro-  
15                  gram.

16                  (B) The National Vaccine Injury Com-  
17                  pensation Program should be extended and im-  
18                  proved. Vaccine information materials should be  
19                  simplified to ensure that parents can under-  
20                  stand the benefits and risks of vaccines.

21           (b) PURPOSE.—It is the purpose of this Act to ensure  
22           that high-risk children in the United States are fully im-  
23           munized against vaccine preventable infectious diseases at  
24           the earliest appropriate age and avert costs to the Federal  
25           Government due to lack of immunization.

1 **SEC. 7802. MEDICAID IMMUNIZATION PROVISIONS.**

2 (a) **RECOMMENDED PEDIATRIC VACCINES.**—Title  
3 XIX (42 U.S.C. 1396 et seq.), as amended by section  
4 7433, is amended by adding at the end the following new  
5 section:

6 “RECOMMENDED PEDIATRIC VACCINES

7 “SEC. 1932. Not later than October 1, 1994 (and pe-  
8 riodically thereafter as the Secretary determines appro-  
9 priate in view of advances in scientific understanding in  
10 the areas of immunization and disease control), the Sec-  
11 retary shall promulgate a list of vaccines that provide im-  
12 munization against naturally occurring infectious diseases  
13 and are recommended for universal use in children. The  
14 Secretary shall concurrently promulgate recommendations  
15 regarding the appropriate dosage for each such vaccine,  
16 and a schedule of the age or ages of children at which  
17 each vaccine should be administered.”.

18 (b) **ASSURING ADEQUATE PAYMENT RATES FOR AD-**  
19 **MINISTRATION OF VACCINES TO CHILDREN.**—

20 (1) **PAYMENT RATES.**—Section 1926(a)(4)(B)  
21 (42 U.S.C. 1396r-7(a)(4)(B)) is amended by insert-  
22 ing “(including the administration of vaccines)”  
23 after “means services”.

24 (2) **EFFECTIVE DATE.**—The amendment made  
25 by paragraph (1) shall apply to the plan amendment  
26 required to be submitted under section 1926(a)(2) of

1 the Social Security Act by not later than October 1,  
2 1994.

3 (c) DENIAL OF FEDERAL FINANCIAL PARTICIPATION  
4 FOR INAPPROPRIATE ADMINISTRATION OF SINGLE-ANTI-  
5 GEN VACCINE.—

6 (1) IN GENERAL.—Section 1903(i) (42 U.S.C.  
7 1396b(i)), as amended by section 7451, is amend-  
8 ed—

9 (A) in paragraph (13), by striking “or” at  
10 the end,

11 (B) in paragraph (14), by striking the pe-  
12 riod at the end and inserting “; or”, and

13 (C) by inserting after paragraph (14) the  
14 following new paragraph:

15 “(15) with respect to any amount expended for  
16 a single-antigen vaccine and its administration in  
17 any case in which the administration of a combined-  
18 antigen vaccine was medically appropriate (as deter-  
19 mined by the Secretary) and cost-beneficial for the  
20 disease.”.

21 (2) EFFECTIVE DATE.—The amendments made  
22 by paragraph (1) shall apply to amounts expended  
23 for vaccines administered on or after October 1,  
24 1994.

25 (d) OUTREACH AND EDUCATION.—

1           (1) IMMUNIZATION OUTREACH THROUGH EPSDT  
2 PROGRAM.—

3           (A) IN GENERAL.—Section 1902(a)(43)(A)  
4 (42 U.S.C. 1396a(a)(43)(A)) is amended by in-  
5 serting before the comma at the end the follow-  
6 ing: “and the need for age-appropriate immuni-  
7 zations against vaccine-preventable diseases”.

8           (B) EFFECTIVE DATE.—(i) Except as pro-  
9 vided in clause (ii), the amendment made by  
10 this paragraph shall apply to calendar quarters  
11 beginning on or after October 1, 1994.

12           (ii) In the case of a State plan for medical  
13 assistance under title XIX of the Social Secu-  
14 rity Act which the Secretary of Health and  
15 Human Services determines requires State leg-  
16 islation (other than legislation appropriating  
17 funds) in order for the plan to meet the addi-  
18 tional requirements imposed by the amend-  
19 ments made by this paragraph, the State plan  
20 shall not be regarded as failing to comply with  
21 the requirements of such title solely on the  
22 basis of its failure to meet such additional re-  
23 quirements before the first day of the first cal-  
24 endar quarter beginning after the close of the  
25 first regular session of the State legislature that

1 begins after the date of the enactment of this  
2 Act. For purposes of the preceding sentence, in  
3 the case of a State that has a 2-year legislative  
4 session, each year of such session shall be  
5 deemed to be a separate regular session of the  
6 State legislature.

7 (2) COORDINATION WITH MATERNAL AND  
8 CHILD HEALTH BLOCK GRANT PROGRAMS AND WIC  
9 PROGRAMS ON PROVIDING INFORMATION AND EDU-  
10 CATION ON IMMUNIZATIONS.—

11 (A) IN GENERAL.—Section 1902(a)(11)  
12 (42 U.S.C. 1396a(a)(11)) is amended—

13 (i) in clause (B)—

14 (I) by striking “effective July 1,  
15 1969,”,

16 (II) by striking “and” before  
17 “(ii)”, and

18 (III) by striking “to him under  
19 section 1903” and inserting “to the  
20 individual under section 1903, and  
21 (iii) providing for coordination of in-  
22 formation and education on pediatric  
23 vaccinations and delivery of immuni-  
24 zation services”; and

1           (ii) in clause (C), by inserting “, in-  
2           cluding the provision of information and  
3           education on pediatric vaccinations and the  
4           delivery of immunization services,” after  
5           “operations under this title”.

6           (B) EFFECTIVE DATE.—(i) Except as pro-  
7           vided in clause (ii), the amendment made by  
8           this paragraph shall apply to calendar quarters  
9           beginning on or after October 1, 1994.

10           (ii) In the case of a State plan for medical  
11           assistance under title XIX of the Social Secu-  
12           rity Act which the Secretary of Health and  
13           Human Services determines requires State leg-  
14           islation (other than legislation appropriating  
15           funds) in order for the plan to meet the addi-  
16           tional requirements imposed by the amend-  
17           ments made by this paragraph, the State plan  
18           shall not be regarded as failing to comply with  
19           the requirements of such title solely on the  
20           basis of its failure to meet such additional re-  
21           quirements before the first day of the first cal-  
22           endar quarter beginning after the close of the  
23           first regular session of the State legislature that  
24           begins after the date of the enactment of this  
25           Act. For purposes of the preceding sentence, in

1 the case of a State that has a 2-year legislative  
2 session, each year of such session shall be  
3 deemed to be a separate regular session of the  
4 State legislature.

5 (e) COORDINATION WITH MATERNAL AND CHILD  
6 HEALTH BLOCK GRANT PROGRAMS ON PAYMENT AND  
7 REPORTS ON IMMUNIZATION SERVICES.—

8 (1) PAYMENT.—Section 505(a) (42 U.S.C.  
9 705(a)) is amended—

10 (A) in paragraph (4), by striking “; and”  
11 and inserting a semicolon;

12 (B) in paragraph (5), by striking the pe-  
13 riod at the end and inserting “; and”; and

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

16 “(6) provides that the State agency (or agen-  
17 cies) administering the State’s program under this  
18 title will coordinate with the State agency admin-  
19 istering the State’s plan under title XIX—

20 “(A) to authorize payments under title  
21 XIX to health care providers who furnish serv-  
22 ices under this title to individuals who are eligi-  
23 ble for medical assistance under title XIX; and

24 “(B) to establish a system under which  
25 health care providers who furnish services

1 under this title to individuals who are eligible  
2 for medical assistance under title XIX shall  
3 seek payment for such services under title XIX  
4 before seeking payment for such services under  
5 this title.”.

6 (2) REPORTS.—Section 506(a) of such Act (42  
7 U.S.C. 706(a)) is amended—

8 (A) in paragraph (1), by striking “Copies  
9 of the report” and inserting “Any information  
10 regarding immunization services provided under  
11 this title which is included in a report submit-  
12 ted under this section shall conform to the Cen-  
13 ters for Disease Control and Prevention immu-  
14 nization reporting standards for federally pur-  
15 chased vaccines. Copies of the report”; and

16 (B) in paragraph (2), by inserting imme-  
17 diately after subparagraph (E) the following  
18 new subparagraph:

19 “(F) Information on activities conducted by the  
20 State to ensure compliance with the Standards for  
21 Immunization Practices, developed and published by  
22 the Centers for Disease Control and Prevention  
23 under the auspices of the National Vaccine Advisory  
24 Committee.”.

1 (f) MEDICAID MANAGED CARE PLANS REQUIRED TO  
2 COMPLY WITH IMMUNIZATION AND OTHER EPSDT RE-  
3 QUIREMENTS.—

4 (1) IN GENERAL.—Section 1903(m) (42 U.S.C.  
5 1396b(m)) is amended—

6 (A) in paragraph (2)(A)—

7 (i) by striking “and” at the end of  
8 clause (x),

9 (ii) by striking the period at the end  
10 of clause (xi) and inserting “; and”, and

11 (iii) by adding at the end the follow-  
12 ing new clause:

13 “(xii) the entity complies with the requirements  
14 of paragraph (7) (relating to EPSDT compliance).”;  
15 and

16 (B) by adding at the end the following new  
17 paragraph:

18 “(7) The contract between the State and an entity  
19 referred to in paragraph (2)(A)(iii) shall—

20 “(A) specify which early and periodic screening,  
21 diagnostic, and treatment services are to be provided  
22 under the contract to individuals under age 21 who  
23 are enrolled with the entity;

24 “(B) in the case of such services which are not  
25 to be so provided, specify the steps the entity or the

1 State will take (through referrals or other arrange-  
2 ments) to assure that such individuals will receive  
3 such services; and

4 “(C) require the entity to submit such periodic  
5 reports as may be necessary to enable the State to  
6 prepare and submit timely reports under sections  
7 1902(a)(43)(D) and 506(a)(2).”.

8 (2) APPLICATION OF INTERMEDIATE SANC-  
9 TIONS FOR FAILURE TO PROVIDE IMMUNIZATIONS  
10 AND OTHER EPSDT SERVICES.—Section  
11 1903(m)(5)(A) (42 U.S.C. 1396b(m)(5)(A)) is  
12 amended—

13 (A) by striking “, or” at the end of clause  
14 (iv) and inserting a semicolon,

15 (B) by striking the comma at the end of  
16 clause (v) and inserting “; or”, and

17 (C) by inserting after clause (v) the follow-  
18 ing new clause:

19 “(vi) fails substantially to provide early and  
20 periodic screening, diagnostic, and treatment serv-  
21 ices to the extent specified in the contract under  
22 paragraph (7)(A);”.

23 (3) EFFECTIVE DATE.—The amendments made  
24 by this subsection shall apply to contract years be-  
25 ginning on or after October 1, 1993, without regard

1 to whether or not final regulations to carry out such  
2 amendments have been promulgated by such date.

3 (g) AVAILABILITY OF MEDICAID PAYMENTS FOR PE-  
4 DIATRIC VACCINE REPLACEMENT PROGRAMS.—

5 (1) IN GENERAL.—Section 1902(a)(32) (42  
6 U.S.C. 1396a(a)(32)) is amended—

7 (A) by striking “and” at the end of sub-  
8 paragraph (B),

9 (B) by striking the period at the end of  
10 subparagraph (C) and inserting “; and”, and

11 (C) by adding at the end the following new  
12 subparagraph:

13 “(D) in the case of payment for a pediatric  
14 vaccine administered to individuals entitled to  
15 medical assistance under the State plan, the  
16 State plan may make payment directly to the  
17 manufacturer of the vaccine under a voluntary  
18 replacement program agreed to by the State  
19 pursuant to which the manufacturer (i) supplies  
20 doses of the vaccine to providers administering  
21 the vaccine, (ii) periodically replaces the supply  
22 of the vaccine, and (iii) charges the State the  
23 manufacturer’s bid price to the Centers for Dis-  
24 ease Control and Prevention for the vaccine so

1 administered plus a reasonable premium to  
2 cover shipping and handling of returns;”.

3 (2) EFFECTIVE DATE.—The amendments made  
4 by subsection (a) shall take effect on the date of the  
5 enactment of this Act.

6 (h) PARENTAL RESPONSIBILITY DEMONSTRATION  
7 PROJECTS.—

8 (1) ESTABLISHMENT.—The Secretary of Health  
9 and Human Services (hereafter referred to in this  
10 subsection as the “Secretary”) shall provide for  
11 demonstration projects under section 1115 of the  
12 Social Security Act designed to improve the rate and  
13 timeliness of immunization against childhood dis-  
14 eases in the case of any child (hereafter referred to  
15 in this subsection as an “eligible child” or “eligible  
16 children”) up to age 2 who is a member of a family  
17 eligible for aid to families with dependent children  
18 under part A of title IV of the Social Security Act  
19 (hereafter referred to in this subsection as “AFDC”)  
20 and who is eligible to receive services under title  
21 XIX of the Social Security Act.

22 (2) PROJECTS DESCRIBED.—

23 (A) IN GENERAL.—Each State conducting  
24 a demonstration project under this subsection  
25 shall establish and operate a parent responsibil-

1           ity program which shall provide that if a family  
2           receiving AFDC for any month includes an eli-  
3           gible child who has not received appropriate im-  
4           munizations (as defined in subparagraph (F))  
5           during such month, the State shall reduce the  
6           benefits to be received by such family for any  
7           succeeding month by all or a portion of the ben-  
8           efits allocable to the parent or guardian of such  
9           child (hereafter referred to in this subsection as  
10          the “parental share”).

11           (B) REASONABLE REDUCTIONS RE-  
12          QUIRED.—Any program established and oper-  
13          ated under subparagraph (A) shall assure that  
14          any reductions in the AFDC benefits to be re-  
15          ceived by a family referred to in such subpara-  
16          graph shall be reasonably related to the failure  
17          to appropriately immunize an eligible child.

18           (C) LATER COMPLIANCE.—Any reductions  
19          in AFDC benefits under subparagraph (A) (ex-  
20          cluding an amount equal to the parental share  
21          for one month, which may be retained by the  
22          State) shall be paid to the family referred to in  
23          such subparagraph upon a demonstration to the  
24          State that the eligible child has received appro-  
25          priate immunizations.

1           (D) LIMITATION.—The total amount of the  
2 reductions in the AFDC benefits to be received  
3 by a family referred to in subparagraph (A)  
4 shall not exceed an amount equal to the paren-  
5 tal share for 7 months.

6           (E) SPECIAL RULE.—Any family referred  
7 to in subparagraph (A) may demonstrate to the  
8 State that due to particular circumstances a pa-  
9 rental responsibility program established and  
10 operated by a State should not be applied to  
11 such family.

12           (F) APPROPRIATE IMMUNIZATIONS.—For  
13 purposes of this subsection, the term “appro-  
14 priate immunizations” refers to immunizations  
15 administered in accordance with the list of rec-  
16 ommended pediatric vaccines promulgated by  
17 the Secretary under section 1932 of the Social  
18 Security Act and the related recommendations  
19 promulgated by the Secretary under such sec-  
20 tion regarding the appropriate dosage for such  
21 vaccines and the age or ages at which such vac-  
22 cines should be administered unless the admin-  
23 istration of such immunizations would not be in  
24 compliance with any law of the State.

25           (2) APPLICATIONS.—

1 (A) IN GENERAL.—Each State desiring to  
2 conduct a demonstration project under this sub-  
3 section shall prepare and submit to the Sec-  
4 retary an application, at such time, in such  
5 manner, and containing any information, in ad-  
6 dition to the information required under sub-  
7 paragraph (B), as the Secretary may require.

8 (B) REQUIRED INFORMATION.—Each ap-  
9 plication submitted by a State under subpara-  
10 graph (A) shall contain the following:

11 (i) A certification by the State that  
12 the cost of the demonstration project as  
13 conducted by the State will be budget neu-  
14 tral to the Federal Government in accord-  
15 ance with paragraph (6).

16 (ii) A description of the parental re-  
17 sponsibility program to be established and  
18 operated by the State under the dem-  
19 onstration project.

20 (iii) A certification by the State that  
21 if a family applying for or receiving AFDC  
22 benefits includes an eligible child, such  
23 family will receive, prior to any action with  
24 respect to determination or redetermina-  
25 tion of eligibility, a written notice contain-

1 ing a description of the State's parent re-  
2 sponsibility program which shall include—

3 (I) an explanation of the immuni-  
4 zations such child is required to re-  
5 ceive under such program,

6 (II) a schedule listing the age  
7 when such immunizations are required  
8 to be administered,

9 (III) an explanation that if such  
10 child is not properly immunized the  
11 family's monthly AFDC benefit may  
12 be reduced by the State, and

13 (IV) an explanation of the proc-  
14 ess by which, and a description of the  
15 medical records or other basis by  
16 which, a family may recover any  
17 AFDC benefits reduced by the State.

18 (iv) A certification by the State that  
19 eligible children will be provided immuni-  
20 zation services by appropriate medical staff  
21 without charge at locations that are acces-  
22 sible to such children and their families  
23 with respect to location and hours of oper-  
24 ation, including the State or local offices  
25 where eligibility determinations are made

1 under part A of title IV of the Social Secu-  
2 rity Act or title XIX of such Act serving  
3 each area in which the demonstration  
4 project is conducted or that the State will  
5 provide transportation services to another  
6 location where the immunization services  
7 will be provided by appropriate medical  
8 staff without charge.

9 (v) A certification by the State that  
10 caseworkers will track the immunization  
11 services provided to an eligible child and  
12 will notify the parent or guardian of such  
13 child with respect to the need for addi-  
14 tional immunization services and a sched-  
15 ule for the appropriate provision of such  
16 services.

17 (vi) A certification by the State that  
18 the demonstration project will be subject to  
19 periodic evaluations intended to measure  
20 the impact of the project on the State's  
21 immunization rates.

22 (C) APPROVAL OF APPLICATIONS.—The  
23 Secretary shall approve no more than 5 applica-  
24 tions submitted by States under subparagraph  
25 (A).

1           (4) DURATION.—Any demonstration project  
2 under this subsection shall be conducted for a period  
3 of 3 years.

4           (5) REPORTS.—

5           (A) INTERIM REPORTS.—A State conduct-  
6 ing a demonstration project under this sub-  
7 section shall prepare and submit to the Sec-  
8 retary such interim reports as may be required  
9 by the Secretary with respect to the activities  
10 conducted by such State under this subsection.

11           (B) FINAL REPORT.—A State conducting a  
12 demonstration project under this subsection  
13 shall prepare and submit to the Secretary a  
14 final report upon the termination of such  
15 project which evaluates the effect of the project  
16 in achieving the objectives of this subsection  
17 and includes such specific data as the Secretary  
18 may require such as data relating to the num-  
19 ber of families whose AFDC was reduced under  
20 the parent responsibility program and whether  
21 the State's immunization rates improved over  
22 the course of the demonstration project.

23           (6) BUDGET NEUTRALITY.—The Secretary shall  
24 provide that in carrying out this subsection, the pay-  
25 ments under section 1903 of the Social Security Act

1 to any State conducting a demonstration project  
2 under this subsection for a quarter shall be no great-  
3 er or lesser than what such payments would have  
4 been if this subsection had not been enacted.

5 (i) TRANSITION RULE.—

6 (1) MEDICAID USE OF CDC CONTRACT PRICE.—

7 The Secretary of Health and Human Services shall  
8 not, on or after the date of the enactment of this  
9 Act, enter into a contract for the purchase by the  
10 Centers for Disease Control and Prevention of pedi-  
11 atric vaccines for distribution (as provided for in the  
12 Public Health Service Act) unless such contract pro-  
13 vides that the charge for such vaccines, for which  
14 medical assistance is provided under a State plan  
15 under title XIX of the Social Security Act, will not  
16 exceed the price negotiated under such contract. The  
17 previous sentence shall not apply, with respect to a  
18 vaccine for which medical assistance is provided by  
19 a State, on and after such date as the State becomes  
20 entitled to have the Secretary provide for the pur-  
21 chase and delivery on behalf of the State of that vac-  
22 cine under section 2101 of the Social Security Act.

23 (2) USE BY STATES OF CDC CONTRACT  
24 PRICE.—Nothing in paragraph (1) shall be con-  
25 strued as limiting the Federal financial participation

1 available to States, under title XIX of the Social Se-  
2 curity Act, for the cost of a pediatric vaccine to the  
3 contract price described in such paragraph for the  
4 vaccine.

5 **SEC. 7803. CENTRAL BULK PURCHASING PROGRAM FOR PE-**  
6 **DIATRIC VACCINES.**

7 (a) IN GENERAL.—The Social Security Act (42  
8 U.S.C. 301 et seq.) is amended by adding at the end the  
9 following new title:

10 **“TITLE XXI—CENTRAL BULK**  
11 **PURCHASING PROGRAM FOR**  
12 **PEDIATRIC VACCINES**

13 “DELIVERY TO STATES OF SUFFICIENT QUANTITIES OF  
14 PEDIATRIC VACCINES

15 “SEC. 2101. (a) IN GENERAL.—In the case of any  
16 State that submits to the Secretary an application in ac-  
17 cordance with section 2107, the Secretary, acting through  
18 the Director of the Centers for Disease Control and Pre-  
19 vention, shall provide for the purchase and delivery on be-  
20 half of the State of such quantities of pediatric vaccines  
21 as may be necessary for the immunization of each eligible  
22 child in the State. The preceding sentence is subject to  
23 sections 2102(d) and 2109(a).

1       “(b) ELIGIBLE CHILDREN.—For purposes of this  
2 title, the term ‘eligible child’ means an individual 18 years  
3 of age or younger who—

4               “(1) with respect to the State involved, is enti-  
5 tled to medical assistance under the plan approved  
6 for the State under title XIX (including a State op-  
7 erating under a statewide waiver under section  
8 1115);

9               “(2)(A)(i) is uninsured with respect to health  
10 insurance policies or plans (including group health  
11 plans or prepaid health plans and including em-  
12 ployee welfare benefit plans under the Employee Re-  
13 tirement Income Security Act of 1974), and

14               “(ii) is a member of a family with an income  
15 of less than 75 percent of the State’s median in-  
16 come; or

17               “(B)(i) is covered under such a policy or plan,  
18 but under the policy or plan benefits are not avail-  
19 able with respect to immunizations, and

20               “(ii) is a member of a family with an income  
21 of less than 75 percent of the State’s median in-  
22 come; or

23               “(3) is an Indian.

24       “STATES, ELIGIBLE CHILDREN, AND PROVIDERS

25       “SEC. 2102. (a) STATES.—Subject to subsection (d),  
26 in the case of any State that submits to the Secretary an

1 application in accordance with section 2107, the State is  
2 entitled to have the Secretary provide for the purchase and  
3 delivery on behalf of the State of pediatric vaccines under  
4 section 2101. The preceding sentence constitutes budget  
5 authority in advance of appropriations Acts, and rep-  
6 resents the obligation of the Federal Government to pro-  
7 vide for the purchase and delivery to the State of the vac-  
8 cines.

9 “(b) CHILDREN AND HEALTH CARE PROVIDERS.—  
10 Subject to subsection (d), the Secretary may provide for  
11 the purchase and delivery of pediatric vaccines under sec-  
12 tion 2101 on behalf of a State only if the State agrees  
13 as follows:

14 “(1) Each eligible child in the State, in receiv-  
15 ing an immunization with a pediatric vaccine from  
16 a program-registered provider (as defined in section  
17 2103(a)), is entitled to receive the immunization  
18 without charge for the cost of such vaccine.

19 “(2) Each program-registered provider in the  
20 State who administers a pediatric vaccine to an eligi-  
21 ble child in the State is entitled to receive such vac-  
22 cine from the State without charge.

23 “(3) The State will carry out a program to ad-  
24 minister the obligations established pursuant to  
25 paragraphs (1) and (2).

1       “(c) ENFORCEMENT OF PROVIDER RIGHTS BY ELI-  
2 GIBLE CHILDREN.—With respect to the obligation of a  
3 State established in subsection (b)(2), an eligible child (or  
4 representative of the child) may enforce the rights of the  
5 provider under such paragraph if—

6           “(1) the provider administered a pediatric vac-  
7 cine to the child notwithstanding the failure of the  
8 State to carry out such obligation with respect to the  
9 vaccine; or

10          “(2) an immunization with the vaccine was  
11 sought for the child by a parent of the child, but the  
12 provider, on the basis of such failure of the State,  
13 did not administer the vaccine to the child.

14       “(d) CERTAIN CONDITIONS.—

15           “(1) IN GENERAL.—This title does not apply  
16 with respect to any vaccine administered before Oc-  
17 tober 1, 1994.

18           “(2) PUBLIC HEALTH SERVICE ACT PRO-  
19 GRAM.—The Federal Government and the States  
20 shall have no obligation pursuant to any provision of  
21 this title with respect to any vaccine purchased  
22 under section 317 of the Public Health Service Act  
23 and administered to an eligible child.

24           “(3) RELATIONSHIP TO PURCHASE CONTRACTS  
25 WITH MANUFACTURERS.—With respect to a pedi-

1       atric vaccine, the obligation of the Federal Govern-  
2       ment pursuant to subsection (a), and the obligations  
3       of the State pursuant to subsection (b), are effective  
4       only to the extent that there is in effect a contract  
5       under section 2108 for the purchase and delivery of  
6       the vaccine.

7               “(4) SUBMISSION OF APPLICATION.—

8               “(A) IN GENERAL.—Subject to subpara-  
9       graph (C), the programs established pursuant  
10       to subsections (a) and (b) are established with  
11       respect to a State upon the State submitting to  
12       the Secretary an application in accordance with  
13       section 2107.

14              “(B) CONSIDERATION OF APPLICATION.—

15       An application submitted to the Secretary  
16       under section 2107 is deemed to have been sub-  
17       mitted in accordance with such section unless  
18       the Secretary, not later than 30 days after the  
19       date on which the application is submitted, no-  
20       tifies the State that the application is not in ac-  
21       cordance with such section.

22              “(C) SPECIAL RULE.—If a State that man-

23       ufactures a pediatric vaccine and does not re-  
24       ceive the vaccine under section 2101 fails to  
25       submit an application in accordance with sec-



1 provider' means a health care provider that meets  
2 the conditions specified in subparagraphs (A)  
3 through (C) of paragraph (1).

4 “(b) ELIGIBILITY OF CHILDREN.—

5 “(1) IN GENERAL.—An agreement for a health  
6 care provider under subsection (a) is that the pro-  
7 vider—

8 “(A) before administering a pediatric vac-  
9 cine to a child, will ask a parent or guardian of  
10 the child such questions as are necessary to de-  
11 termine whether the child is an eligible child;

12 “(B) will, for a period of time specified by  
13 the Secretary, maintain records of responses  
14 made to the questions; and

15 “(C) will, upon request, make such records  
16 available to the appropriate State agency in-  
17 volved and to the Secretary, subject to para-  
18 graphs (2) and (3).

19 “(2) INFORMATIONAL FORM.—The Secretary  
20 shall develop, in consultation with States and health  
21 care providers, a simple form for providers to fur-  
22 nish to a child's parent or guardian which allows  
23 such parent or guardian to declare that the child is  
24 an eligible child and which contains a statement as-  
25 suring the confidentiality of any information re-

1       ceived. Each State may elect to utilize the form de-  
2       veloped by the Secretary under this paragraph or an  
3       alternate form developed by the State and approved  
4       by the Secretary.

5           “(3) RESTRICTION ON USE OF INFORMATION.—  
6       Records provided to a State or to the Secretary  
7       under paragraph (1)(C) may be used only for pur-  
8       poses of audit of the program carried out under sec-  
9       tion 2102(b)(3) by the State. The State and the  
10      Secretary shall assure confidentiality of such  
11      records.

12      “(c) CHARGES FOR VACCINES.—

13           “(1) NO CHARGE FOR VACCINE.—An agreement  
14      for a health care provider under subsection (a) is  
15      that, in administering a federally supplied pediatric  
16      vaccine to an eligible child, the provider will not im-  
17      pose a charge for the cost of the vaccine.

18           “(2) ADMINISTRATION OF VACCINES.—With re-  
19      spect to compliance with an agreement under para-  
20      graph (1), a program-registered provider may im-  
21      pose a fee for the administration of a federally sup-  
22      plied pediatric vaccine that reflects actual regional  
23      costs as determined by the Secretary, except that a  
24      provider may not deny a child a vaccination due to

1 the inability of the child's parent or guardian to pay  
2 an administration fee.

3 “(d) RULES OF CONSTRUCTION.—

4 “(1) EXTENT OF PARTICIPATION.—This section  
5 may not be construed as requiring that a program-  
6 registered provider administer a federally supplied  
7 pediatric vaccine to each eligible child for whom an  
8 immunization with the vaccine is sought from the  
9 provider.

10 “(2) VERIFICATION OF INFORMATION.—

11 “(A) PROGRAM-REGISTERED PROVIDERS.—With respect to compliance with agree-  
12 ments under subsections (b) and (c), such  
13 agreements may not be construed as permitting  
14 or requiring a program-registered provider to  
15 verify independently the information provided to  
16 the provider by a parent pursuant to such sub-  
17 sections.  
18

19 “(B) PARENTS OR GUARDIANS.—Nothing  
20 in this section shall be construed as requiring a  
21 child's parent or guardian to provide proof of  
22 the child's family income or insurance status.

23 “(3) STATE UNIVERSAL VACCINE PROGRAM.—

24 In the case of a State which purchases sufficient  
25 quantities of vaccines to provide all recommended

1 pediatric vaccines to all children in the State, noth-  
2 ing in this title shall be construed as requiring pro-  
3 gram-registered providers to collect information, or  
4 as requiring a child's parent or guardian to provide  
5 any information, with respect to whether a child is  
6 an eligible child under this title.

7 "INTRASTATE DISTRIBUTION OF PEDIATRIC VACCINES

8 "SEC. 2104. (a) IN GENERAL.—Not later than 180  
9 days after the date of the enactment of the Omnibus  
10 Budget Reconciliation Act of 1993, the Secretary shall,  
11 through publication in the Federal Register, establish cri-  
12 teria for the delivery on behalf of the States of federally  
13 supplied pediatric vaccines to program-registered provid-  
14 ers in the State.

15 "(b) INVOLVEMENT OF CERTAIN PROVIDERS.—

16 "(1) IN GENERAL.—In establishing criteria  
17 under subsection (a), the Secretary shall establish  
18 criteria with respect to encouraging the entities de-  
19 scribed in paragraph (2) to become program-reg-  
20 istered providers.

21 "(2) RELEVANT PROVIDERS.—The entities re-  
22 ferred to in paragraph (1) are—

23 "(A) private health care providers; and

24 "(B)(i) health care providers that receive  
25 funds under title V of the Indian Health Care  
26 Improvement Act;



1       termining the extent to which States and program-  
2       registered providers are in compliance with the  
3       agreements made under this title.

4               “(2) COMPLIANCE BY STATES.— The Secretary  
5       may provide for the purchase and delivery of pedi-  
6       atric vaccines under section 2101 on behalf of a  
7       State only if the State agrees to maintain compli-  
8       ance with the standards established under paragraph  
9       (1).

10              “(b) STATE MAINTENANCE OF IMMUNIZATION  
11       LAWS.—The Secretary may provide for the purchase and  
12       delivery of vaccines under section 2101 on behalf of a  
13       State only if the State certifies to the Secretary that, if  
14       the State had in effect as of May 1, 1993, a law that re-  
15       quires some or all health insurance policies or plans to  
16       provide some coverage with respect to a pediatric vaccine,  
17       the State has not modified or repealed such law in a man-  
18       ner that reduces the amount of coverage so required.

19              “STATE OPTION REGARDING IMMUNIZATION OF  
20              ADDITIONAL CATEGORIES OF CHILDREN

21              “SEC. 2106. (a) STATE PURCHASES.—Subject to  
22       subsections (b) and (c), for the purpose of administering  
23       a pediatric vaccine to children in addition to eligible chil-  
24       dren, any participating State under section 2101 may,  
25       pursuant to section 2108(a)(2), purchase the vaccine from

1 a manufacturer of the vaccine at the price in effect under  
2 section 2108.

3 “(b) REQUIREMENTS.—A State may purchase pedi-  
4 atric vaccines pursuant to subsection (a) only if the follow-  
5 ing conditions are met:

6 “(1) The State agrees that the vaccines will be  
7 used to provide immunizations for children who are  
8 not eligible children.

9 “(2) The State designates the particular cat-  
10 egories of children who are to receive the immuniza-  
11 tions, and submits to the Secretary a description of  
12 the categories so designated.

13 “(3) The State provides to the Secretary, in ad-  
14 vance of the negotiations under section 2108, infor-  
15 mation relating to the specific quantities of pediatric  
16 vaccines the State wishes to purchase and such other  
17 information as the Secretary determines to be nec-  
18 essary to provide for quantities of pediatric vaccines  
19 for the State to purchase pursuant to section  
20 2108(a)(4).

21 “(4) The State agrees, subject to subsection (c),  
22 that the program established by the State pursuant  
23 to section 2102(b)(3) applies to children designated  
24 under paragraph (2) to the same extent and in the  
25 same manner as the program applies to eligible chil-

1       dren (except for the State being the purchaser of the  
2       pediatric vaccines involved).

3       “(c) CERTAIN LIMITATIONS.—A State may purchase  
4       pediatric vaccines pursuant to subsection (a) only if the  
5       State agrees as follows:

6               “(1) The authorization established in such sub-  
7       section with respect to a pediatric vaccine is subject  
8       to the quantity of the vaccine that, on behalf of the  
9       State, the Secretary provides for under section  
10       2108(a)(2).

11               “(2) In any case in which multiple contracts are  
12       in effect under section 2108 with respect to such a  
13       vaccine and the State elects to purchase the vaccine  
14       pursuant to subsection (a), the Secretary will deter-  
15       mine which of such contracts will be applicable to  
16       the purchase.

17       “(d) MONITORING BY THE SECRETARY.—The Sec-  
18       retary shall study and report to the Congress annually  
19       on—

20               “(1) the extent to which States elect to pur-  
21       chase pediatric vaccines pursuant to subsection (a),

22               “(2) the impact of such purchases on the price  
23       of the pediatric vaccines purchased by the Federal  
24       Government under this title,

1           “(3) the effectiveness and efficiency of permit-  
2           ting States to purchase pediatric vaccines pursuant  
3           to subsection (a), and

4           “(4) State procedures and mechanisms for  
5           funding the purchase of pediatric vaccines pursuant  
6           to subsection (a).

7           “STATE APPLICATION FOR VACCINES

8           “SEC. 2107. An application by a State for pediatric  
9           vaccines under section 2101(a) is in accordance with this  
10          section if the application—

11           “(1) is submitted not later than the date speci-  
12          fied by the Secretary;

13           “(2) contains each agreement required in this  
14          title (including the agreements required in section  
15          2106, if the State is electing to purchase pediatric  
16          vaccines pursuant to such section);

17           “(3) contains any information required in this  
18          title to be submitted to the Secretary (including the  
19          information required in section 2106, if the State is  
20          electing to purchase pediatric vaccines pursuant to  
21          such section);

22           “(4) contains the certification required in sub-  
23          section (b) of section 2105 and, as applicable, the  
24          certification required in subsection (c) of such sec-  
25          tion; and



1           “(4) each participating State, at the option of  
2           the State under section 2106, is permitted to obtain  
3           additional quantities of pediatric vaccines (subject to  
4           limits in such contracts regarding quantities)  
5           through purchasing the vaccines from the manufac-  
6           turers at the price negotiated by the Secretary for  
7           the quantities specified in paragraph (1).

8           The Secretary shall enter into the initial negotiations  
9           under the preceding sentence not later than 180 days after  
10          the date of the enactment of the Omnibus Budget Rec-  
11          onciliation Act of 1993.

12          “(b) NEGOTIATION OF PURCHASE PRICE.—

13                 “(1) IN GENERAL.—In negotiating the prices at  
14                 which pediatric vaccines will be purchased from a  
15                 manufacturer under subsection (a), the Secretary  
16                 shall negotiate a price that provides a reasonable  
17                 profit for the manufacturer and that includes the ex-  
18                 cise tax under section 4131 of the Internal Revenue  
19                 Code of 1986 and the costs described in paragraph  
20                 (2).

21                 “(2) CERTAIN FACTORS.—

22                         “(A) In determining a reasonable profit for  
23                         a manufacturer under paragraph (1), the Sec-  
24                         retary shall consider the following factors:

1           “(i) The costs of the manufacturer in  
2           researching, developing, and producing the  
3           pediatric vaccine involved.

4           “(ii) The costs of the manufacturer in  
5           researching and developing new or im-  
6           proved vaccines (pediatric or otherwise).

7           “(iii) The costs of shipping and han-  
8           dling pediatric vaccines by a manufacturer  
9           or a State in compliance with the agree-  
10          ment under subsection (c).

11          “(iv) The cost of maintaining ade-  
12          quate capacity for disease outbreak con-  
13          trol.

14          “(v) Such other factors as the Sec-  
15          retary determines to be appropriate as set  
16          forth in regulations issued by the Sec-  
17          retary.

18          “(B) With respect to factors considered  
19          under subparagraph (A), the Secretary may  
20          enter into a contract under subsection (a) only  
21          if the manufacturer involved provides to the  
22          Secretary such information regarding the fac-  
23          tors as the Secretary determines to be appro-  
24          priate as set forth in regulations issued by the  
25          Secretary.

1           “(3) CONFIDENTIALITY.—With respect to infor-  
2           mation provided to the Secretary by a manufacturer  
3           under paragraph (2), the following applies:

4                   “(A) The Secretary shall maintain the con-  
5                   fidentiality of the information, with provision  
6                   for reasonable disclosures.

7                   “(B) For purposes of section 552(b)(4) of  
8                   title 5, United States Code, the information  
9                   shall be considered to be trade secrets and com-  
10                  mercial or financial information obtained from  
11                  a person and privileged or confidential.

12                  “(C) Section 1905 of title 18, United  
13                  States Code, applies to information maintained  
14                  confidentially under subparagraph (A).

15           “(c) CHARGES FOR SHIPPING AND HANDLING.—The  
16           Secretary may enter into a contract under subsection (a)  
17           only—

18                   “(1) if the manufacturer involved agrees that  
19                   the manufacturer will provide for delivering the vac-  
20                   cines on behalf of the States in accordance with the  
21                   programs established by the States pursuant section  
22                   2102(b)(3) and agrees not to impose any charges for  
23                   the costs of such delivery (except to the extent such  
24                   costs are provided for in the price negotiated under  
25                   subsection (b)), or

1           “(2) for a State that distributes vaccines, if the  
2 State will not impose any charges for the costs of  
3 such delivery (except to the extent such costs are  
4 provided for in the price negotiated under subsection  
5 (b)).

6           “(d) CONSULTATIONS.—

7           “(1) PREPROCUREMENT CONSULTATIONS.—The  
8 Secretary may consult with representatives of State  
9 governments, experts in vaccine delivery, health care  
10 providers, and others with expertise in purchasing  
11 and pricing pharmaceutical products prior to solicit-  
12 ing bids or offers for recommended pediatric vac-  
13 cines under this section. Health care providers shall  
14 also furnish periodic estimates to the States of the  
15 providers’ future dosage needs for recommended pe-  
16 diatric vaccines distributed under the Public Health  
17 Service Act. States receiving Federal grants for im-  
18 munization registries shall report such data to the  
19 Secretary. All reports shall be made with such fre-  
20 quency and in such detail as the Secretary may pre-  
21 scribe.

22           “(2) CONSULTATIONS WITH FEDERAL AGEN-  
23 CIES.—The Secretary shall, in order to determine  
24 the appropriate vaccines and amounts of vaccines to  
25 be purchased under subsection (a), consult with

1 Federal agencies involved in research regarding, or  
2 the regulation, procurement, or distribution of, rec-  
3 ommended pediatric vaccines. Such consultation may  
4 be effected through the establishment of a Vaccine  
5 Requirements Panel to be composed entirely of rep-  
6 resentatives of the relevant Federal agencies, or  
7 through such other means as the Secretary deter-  
8 mines appropriate.

9 “(e) NEGOTIATING AUTHORITY OF SECRETARY.—In  
10 carrying out subsection (a), the Secretary, to the extent  
11 determined by the Secretary to be appropriate, may enter  
12 into contracts described in such subsection, may decline  
13 to enter into such contracts, and with the consent of the  
14 manufacturers involved, may modify such agreements and  
15 may extend such agreements.

16 “(f) CERTAIN CONTRACT PROVISIONS.—

17 “(1) DURATION.—A contract entered into by  
18 the Secretary under subsection (a) is effective for  
19 such period as the Secretary and the manufacturer  
20 involved may agree in the contract.

21 “(2) ADVANCE FUNDING.—The Secretary may,  
22 pursuant to section 2102(a), enter into contracts  
23 under subsection (a) under which the Federal Gov-  
24 ernment is obligated to make outlays, the budget au-

1       thority for which is not provided for in advance in  
2       appropriations Acts.

3       “(g) REPORTS TO SECRETARY.—The Secretary may  
4       enter into a contract under subsection (a) only if the man-  
5       ufacturer involved agrees to submit to the Secretary such  
6       reports as the Secretary determines to be appropriate with  
7       respect to compliance with the contract. For purposes of  
8       paragraph (3) of subsection (b), such reports shall be con-  
9       sidered to be information provided by the manufacturer  
10      to the Secretary under paragraph (2) of such subsection.

11      “(h) MULTIPLE SUPPLIERS.—

12              “(1) IN GENERAL.—In the case of the pediatric  
13      vaccine involved, the Secretary shall, as appropriate,  
14      enter into a contract under subsection (a) with each  
15      manufacturer of the vaccine that meets the terms  
16      and conditions of the Secretary for an award of such  
17      a contract (including terms and conditions regarding  
18      safety, quality, and price).

19              “(2) RULE OF CONSTRUCTION.—With respect  
20      to multiple contracts entered into pursuant to para-  
21      graph (1), such paragraph may not be construed as  
22      prohibiting the Secretary from having in effect dif-  
23      ferent prices under each of such contracts.

24              “CERTAIN ADMINISTRATIVE VARIATIONS

25              “SEC. 2109. (a) TRIBES AND TRIBAL ORGANIZA-  
26      TIONS.—

1           “(1) IN GENERAL.—Subject to paragraph (2),  
2           the Secretary shall provide for the purchase and de-  
3           livery on behalf of each Indian tribe and each tribal  
4           organization of such quantities of pediatric vaccines  
5           as may be necessary for the immunization of each  
6           Indian child in the State in which the tribe or orga-  
7           nization (as the case may be) is located.

8           “(2) ADMINISTERING PROGRAM.—The Sec-  
9           retary may provide for the purchase and delivery of  
10          pediatric vaccines under paragraph (1) on behalf of  
11          an Indian tribe or tribal organization only if the  
12          tribe or organization (as the case may be) agrees  
13          that this title applies to the tribe or organization (in  
14          relation to Indian children) to the same extent and  
15          in the manner as such title applies to States (in re-  
16          lation to eligible children).

17          “(b) STATE AS MANUFACTURER.—

18                 “(1) PAYMENTS IN LIEU OF VACCINES.—In the  
19                 case of a participating State under section 2101 that  
20                 manufactures a pediatric vaccine and is not receiv-  
21                 ing the vaccine under such section, if the Secretary  
22                 determines that the program of the State under  
23                 2102(b)(3) is carried out with respect to the vaccine,  
24                 the Secretary shall provide to the State an amount  
25                 equal to the value of the quantity of such vaccine

1 that otherwise would have been delivered to the  
2 State under section 2101, subject to the provisions  
3 of this subsection.

4 “(2) DETERMINATION OF VALUE.—In deter-  
5 mining the amount to pay a State under paragraph  
6 (1) with respect to a pediatric vaccine, the value of  
7 the quantity of vaccine shall be determined on the  
8 basis of the price in effect for the vaccine under con-  
9 tracts under section 2108. If more than 1 such con-  
10 tract is in effect, the Secretary shall determine such  
11 value on the basis of the average of the prices under  
12 the contracts, after weighting each such price in re-  
13 lation to the quantity of vaccine under the contract  
14 involved.

15 “(3) USE OF PAYMENTS.—A State may expend  
16 payments received under paragraph (1) only for pur-  
17 poses relating to pediatric vaccines.

18 “CHILDHOOD IMMUNIZATION TRUST FUND  
19 SEC. 2110. (a) ESTABLISHMENT OF FUND.—There  
20 is established in the Treasury of the United States a fund  
21 to be known as the National Childhood Immunization  
22 Trust Fund (in this section referred to as the ‘Fund’),  
23 consisting of such amounts as may be appropriated or  
24 credited to the Fund as provided in this section.

25 “(b) TRANSFERS TO THE FUND.—

1           “(1) IN GENERAL.—There is hereby appro-  
2           priated to the Fund amounts equivalent to the  
3           amount of any reductions in Federal expenditures  
4           under title XIX resulting from the enactment of this  
5           title and section 1903(x).

6           “(2) TRANSFERS BASED ON ESTIMATES.—The  
7           amounts appropriated by paragraph (1) shall be  
8           transferred at least monthly from the general fund  
9           of the Treasury to the Fund on the basis of esti-  
10          mates made by the Secretary of the Treasury of the  
11          amounts referred to in such section. Proper adjust-  
12          ments shall be made in the amounts subsequently  
13          transferred to the extent prior estimates were in ex-  
14          cess of or less than the amounts required to be  
15          transferred.

16          “(c) EXPENDITURES FROM FUND.—

17                 (1) IN GENERAL.—Amounts in the Fund are  
18                 available to the Secretary for the purpose of carry-  
19                 ing out this title. Amounts appropriated or credited  
20                 to the Fund shall remain available until expended.

21                 “(2) BUDGET EFFECT.—Payments under the  
22                 program under this title, and the costs of carrying  
23                 out such program, shall be exempt from reduction  
24                 under any order issued under part C of the Bal-

1       anced Budget and Emergency Deficit Control Act of  
2       1985.

3       “(d) INVESTMENT.—

4               “(1) IN GENERAL.—The Secretary of the  
5       Treasury shall invest such amounts of the Fund as  
6       such Secretary determines are not required to meet  
7       current withdrawals from the Fund. Such invest-  
8       ments may be made only in interest-bearing obliga-  
9       tions of the United States. For such purpose, such  
10      obligations may be acquired on original issue at the  
11      issue price, or by purchase of outstanding obliga-  
12      tions at the market price.

13              “(2) SALE OF OBLIGATIONS.—Any obligation  
14      acquired by the Fund may be sold by the Secretary  
15      of the Treasury at the market price.

16              “(3) AVAILABILITY OF INCOME.—Any interest  
17      derived from obligations acquired by the Fund, and  
18      proceeds from any sale or redemption of such obliga-  
19      tions, shall be credited to and form a part of the  
20      Fund.

21                              “DEFINITIONS

22      “SEC. 2111. For purposes of this title:

23              “(1) The term ‘eligible child’ has the meaning  
24      given such term in section 2101(b).

25              “(2) The term ‘federally supplied’, with respect  
26      to a pediatric vaccine, means that such vaccine is

1 purchased and delivered on behalf of a State under  
2 section 2101(a).

3 “(3) The term ‘health care provider’, with re-  
4 spect to the administration of vaccines to children,  
5 means an entity that is licensed or otherwise author-  
6 ized for such administration under the law of the  
7 State in which the entity administers the vaccine.

8 “(4) The term ‘immunization’ means an immu-  
9 nization against a vaccine-preventable disease.

10 “(5) Each of the terms ‘Indian’, ‘Indian tribe’,  
11 and ‘tribal organization’ has the meaning given such  
12 term in section 4 of the Indian Health Care Im-  
13 provement Act.

14 “(6) The term ‘Indian child’ means an Indian  
15 who is 18 years of age or younger.

16 “(7) The term ‘manufacturer’ means any cor-  
17 poration, organization, or institution, whether public  
18 or private (including Federal, State, and local de-  
19 partments, agencies, and instrumentalities), which  
20 manufactures, imports, processes, or distributes  
21 under its label any pediatric vaccine. The term  
22 ‘manufacture’ means to manufacture, import, proc-  
23 ess, or distribute a vaccine.

24 “(8) The term ‘parent’, with respect to a child,  
25 means a legal guardian of the child.

1           “(9) The term ‘participating State under sec-  
2           tion 2101’ means a State that has submitted to the  
3           Secretary an application in accordance with section  
4           2107.

5           “(10) The term ‘pediatric vaccine’ means a vac-  
6           cine included on the list established under section  
7           1932.

8           “(11) The term ‘program-registered provider’  
9           has the meaning given such term in 2103(a)(2).

10                           “TERMINATION OF PROGRAM

11           “SEC. 2112. (a) IN GENERAL.—This title shall cease  
12 to be in effect beginning on such date as may be pre-  
13 scribed in Federal law providing for immunization services  
14 for all children as part of a broad-based reform of the na-  
15 tional health care system.”.

16           (b) NATIONAL IMMUNIZATION TRACKING SYSTEM.—  
17 On such date as section 2101 of the Social Security Act  
18 (as added by subsection (a)) shall cease to be in effect  
19 as provided in subsection (a), the Secretary of Health and  
20 Human Services shall implement a program to ensure par-  
21 ticipation of all health care providers in a national immu-  
22 nization tracking system.

23           (c) CONTINUED COVERAGE OF COSTS OF A PEDI-  
24 ATRIC VACCINE UNDER GROUP HEALTH PLANS.—

25           (1) REQUIREMENT.—The requirement of this  
26           paragraph, with respect to a group health plan for

1 plan years beginning after the date of the enactment  
2 of this Act, is that the group health plan not reduce  
3 its coverage of the costs of pediatric vaccines (as de-  
4 fined under section 2111 of the Social Security Act)  
5 below the coverage it provided as of May 1, 1993.

6 (2) ENFORCEMENT.—For purposes of sub-  
7 sections (a) through (e) of section 4980B of the In-  
8 ternal Revenue Code of 1986, paragraph (1) is  
9 deemed a requirement of subsection (f) of such sec-  
10 tion.

11 (d) STATE CONTRIBUTION TO COST OF IMMUNIZA-  
12 TIONS.—

13 (1) OFFSET OF MEDICAID MATCHING.—Section  
14 1903 (42 U.S.C. 1396b) is amended by adding at  
15 the end the following new subsection:

16 “(x) STATE CONTRIBUTION TO COST OF IMMUNIZA-  
17 TIONS.—

18 “(1) MATCHING REDUCTION REQUIRED.—The  
19 amount determined under subsection (a)(1) for any  
20 State participating in the central bulk purchasing  
21 program for pediatric vaccines under title XXI for  
22 any quarter shall be reduced by an amount equal  
23 to—

24 “(A) 25 percent of the product of the  
25 State’s base year vaccine expenditures (as de-

1           fined in paragraph (2)) and the cost-of-living  
2           adjustment (as determined under paragraph  
3           (4)) for the calendar year in which the quarter  
4           ends, less

5           “(B) the State’s additional compliance  
6           costs (as defined in paragraph (3)) for the  
7           quarter.

8           “(2) BASE YEAR VACCINE EXPENDITURES.—

9           “(A) IN GENERAL.—For purposes of this  
10          subsection, the term ‘base year vaccine expendi-  
11          tures’ for any State means an amount equal  
12          to—

13               “(i) the State’s expenditures for pedi-  
14               atric vaccines during the State’s fiscal year  
15               1993, as determined by the Secretary in  
16               accordance with the methodology estab-  
17               lished under subparagraph (5), less

18               “(ii) the Federal payments made to  
19               the State under subsection (a)(1) with re-  
20               spect to the State expenditures referred to  
21               in clause (i).

22          “(3) ADDITIONAL COMPLIANCE COSTS.—

23               “(A) IN GENERAL.—For purposes of this  
24          subsection, the term ‘additional compliance

1 costs' for any State for any quarter means the  
2 amount by which—

3 “(i)(I) the State’s expenditures for the  
4 administration of pediatric vaccines for the  
5 quarter, less

6 “(II) the Federal payments to be  
7 made to the State under subsection (a)(1)  
8 with respect to the State expenditures re-  
9 ferred to in subclause (I), exceeds

10 “(ii) 25 percent of the product of the  
11 State’s base year administration expendi-  
12 tures (as defined in subparagraph (B)) and  
13 the cost-of-living adjustment (as deter-  
14 mined under paragraph (4)) for the cal-  
15 endar year in which the quarter ends.

16 “(B) BASE YEAR VACCINE ADMINISTRA-  
17 TION EXPENDITURES.—For purposes of this  
18 subsection, the term ‘base year administration  
19 expenditures’ for any State means an amount  
20 equal to—

21 “(i) the State’s expenditures for the  
22 administration of pediatric vaccines during  
23 the State’s fiscal year 1993, as determined  
24 by the Secretary in accordance with the

1 methodology established under paragraph  
2 (5), less

3 “(ii) the Federal payments made to  
4 the State under subsection (a)(1) with re-  
5 spect to the State expenditures referred to  
6 in clause (i).

7 “(4) COST-OF-LIVING-ADJUSTMENT.—

8 “(A) IN GENERAL.—For purposes of this  
9 subsection, the cost-of-living adjustment for any  
10 calendar year is the percentage (if any) by  
11 which—

12 “(i) the MCPI for the preceding cal-  
13 endar year, exceeds

14 “(ii) the MCPI for calendar year  
15 1992.

16 “(B) MCPI FOR ANY CALENDAR YEAR.—  
17 For purposes of subparagraph (A), the MCPI  
18 for any calendar year is the average of the med-  
19 ical care expenditures category of the Consumer  
20 Price Index for all urban consumers (U.S. city  
21 average) published by the Department of Labor  
22 as of the close of the 12-month period ending  
23 on August 31 of such calendar year.

24 “(5) METHODOLOGY.—

1           “(A) IN GENERAL.—The Secretary shall  
2 establish by regulation a methodology to esti-  
3 mate the State’s expenditures during the  
4 State’s fiscal year 1993—

5           “(i) for pediatric vaccines under the  
6 State plan under this title; and

7           “(ii) for the administration of pedi-  
8 atric vaccines under the State plan under  
9 this title.

10          “(B) ELEMENTS OF METHODOLOGY.—The  
11 methodology established under subparagraph  
12 (A)—

13          “(i) need not be based on actual costs  
14 per child;

15          “(ii) may include assumptions or esti-  
16 mates, based on the most reliable informa-  
17 tion generally available to the Secretary, as  
18 to the proportions of children immunized  
19 in clinics and by providers in private prac-  
20 tice, vaccine costs per child immunized in  
21 each type of setting, and other factors; and

22          “(iii) shall provide for appropriate ad-  
23 justment of the estimate where the State  
24 demonstrates to the Secretary’s satisfac-  
25 tion that its actual expenditures for pedi-

1           atric vaccines and the administration of  
2           such vaccines during the State's fiscal year  
3           1993 were lower than expenditures esti-  
4           mated by the Secretary.

5           “(6) TRANSFER TO IMMUNIZATION TRUST  
6           FUND.—

7           “(A) IN GENERAL.—For each calendar  
8           quarter beginning on or after October 1, 1995,  
9           the Secretary shall transfer to the National  
10          Childhood Immunization Trust Fund estab-  
11          lished under section 2110 an amount equal to  
12          the sum of—

13               “(i) the total reductions in Federal  
14               matching payments to all States pursuant  
15               to paragraph (1), and

16               “(ii) the amount equal to the sum of  
17               the Federal share of State expenditures for  
18               all States (as defined in subparagraph  
19               (B)).

20           “(B) FEDERAL SHARE OF STATE EXPEND-  
21          ITURES.—For purposes of this paragraph, the  
22          term ‘Federal share of State expenditures’, with  
23          respect to a State, means an amount equal to  
24          the product of—

1           “(i) the Federal medical assistance  
2           percentage for the State, and

3           “(ii) the amount specified in para-  
4           graph (1)(A) for the State.”.

5           (2) EFFECTIVE DATE.—The amendments made  
6           by paragraph (1) shall be effective for calendar  
7           quarters beginning on or after October 1, 1994.

8           **PART III—DISCLOSURE PROVISIONS**

9           **SEC. 7901. DISCLOSURE OF RETURN INFORMATION FOR AD-**  
10           **MINISTRATION OF CERTAIN VETERANS PRO-**  
11           **GRAMS.**

12           (a) GENERAL RULE.—Subparagraph (D) of section  
13           6103(l)(7) of the Internal Revenue Code of 1986 (relating  
14           to disclosure of return information to Federal, State, and  
15           local agencies administering certain programs) is amended  
16           by striking “September 30, 1997” in the second sentence  
17           following clause (viii) and inserting “September 30,  
18           1998”.

19           (b) AUTHORITY FOR SECRETARY OF VETERANS AF-  
20           FAIRS TO OBTAIN INFORMATION.—Section 5317(g) of  
21           title 38, United States Code, is amended by striking out  
22           “September 30, 1997” and inserting “September 30,  
23           1998”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect on the date of the enactment  
3 of this Act.

4 **SEC. 7902. DISCLOSURE OF RETURN INFORMATION TO**  
5 **CARRY OUT INCOME CONTINGENT REPAY-**  
6 **MENT OF STUDENT LOANS.**

7 (a) GENERAL RULE.—Subsection (l) of section 6103  
8 of the Internal Revenue Code of 1986 (relating to con-  
9 fidentiality and disclosure of returns and return informa-  
10 tion) is amended by adding at the end thereof the follow-  
11 ing new paragraph:

12 “(13) DISCLOSURE OF RETURN INFORMATION  
13 TO CARRY OUT INCOME CONTINGENT REPAYMENT  
14 OF STUDENT LOANS.—

15 “(A) IN GENERAL.—The Secretary may,  
16 upon written request from the Secretary of  
17 Education, disclose to officers and employees of  
18 the Department of Education return informa-  
19 tion with respect to a taxpayer who has received  
20 an applicable student loan and whose loan re-  
21 payment amounts are based in whole or in part  
22 on the taxpayer’s income. Such return informa-  
23 tion shall be limited to—

24 “(i) taxpayer identity information  
25 with respect to such taxpayer,

1           “(ii) the filing status of such tax-  
2           payer, and

3           “(iii) the adjusted gross income of  
4           such taxpayer.

5           “(B) RESTRICTION ON USE OF DISCLOSED  
6           INFORMATION.—Return information disclosed  
7           under subparagraph (A) may be used by offi-  
8           cers and employees of the Department of Edu-  
9           cation only for the purposes of, and to the ex-  
10          tent necessary in, establishing the appropriate  
11          income contingent repayment amount for an  
12          applicable student loan.

13          “(C) APPLICABLE STUDENT LOAN.—For  
14          purposes of this paragraph, the term ‘applicable  
15          student loan’ means—

16                 “(i) any loan made under the program  
17                 authorized under part D of title IV of the  
18                 Higher Education Act of 1965, and

19                 “(ii) any loan made under part B or  
20                 E of title IV of the Higher Education Act  
21                 of 1965 which is in default and has been  
22                 assigned to the Department of Education.

23          “(D) TERMINATION.—This paragraph  
24          shall not apply to any request made after Sep-  
25          tember 30, 1998.”

1 (b) CONFORMING AMENDMENTS.—

2 (1) So much of paragraph (4) of section  
3 6103(m) of such Code as precedes subparagraph (B)  
4 thereof is amended to read as follows:

5 “(4) INDIVIDUALS WHO OWE AN OVERPAYMENT  
6 OF FEDERAL PELL GRANTS OR WHO HAVE DE-  
7 FAULTED ON STUDENT LOANS ADMINISTERED BY  
8 THE DEPARTMENT OF EDUCATION.—

9 “(A) IN GENERAL.—Upon written request  
10 by the Secretary of Education, the Secretary  
11 may disclose the mailing address of any tax-  
12 payer—

13 “(i) who owes an overpayment of a  
14 grant awarded to such taxpayer under sub-  
15 part 1 of part A of title IV of the Higher  
16 Education Act of 1965, or

17 “(ii) who has defaulted on a loan—

18 “(I) made under part B, D, or E  
19 of title IV of the Higher Education  
20 Act of 1965, or

21 “(II) made pursuant to section  
22 3(a)(1) of the Migration and Refugee  
23 Assistance Act of 1962 to a student  
24 at an institution of higher education,

1 for use only by officers, employees, or agents of  
2 the Department of Education for purposes of  
3 locating such taxpayer for purposes of collecting  
4 such overpayment or loan .”

5 (2) Subparagraph (B) of section 6103(m)(4) of  
6 such Code is amended—

7 (A) in clause (i), by striking “under part  
8 B” and inserting “under part B or D”; and

9 (B) in clause (ii), by striking “under part  
10 E” and inserting “under subpart 1 of part A,  
11 or part D or E,”;

12 (3) Section 6103(p) of such Code is amended—

13 (A) in paragraph (3)(A), by striking “(11),  
14 or (12), (m)” and inserting “(11), (12), or  
15 (13), (m)”;

16 (B) in paragraph (4)—

17 (i) in the matter preceding subpara-  
18 graph (A), by striking out “(10), or (11),”  
19 and inserting “(10), (11), or (13),”, and

20 (ii) in subparagraph (F)(ii), by strik-  
21 ing “(11), or (12),” and inserting “(11),  
22 (12), or (13),”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall take effect on the date of the enactment  
25 of this Act.

1 **SEC. 7903. USE OF RETURN INFORMATION FOR INCOME**  
2 **VERIFICATION UNDER CERTAIN HOUSING AS-**  
3 **SISTANCE PROGRAMS.**

4 (a) IN GENERAL.—Subparagraph (D) of section  
5 6103(l)(7) of the Internal Revenue Code of 1986 (relating  
6 to the disclosure of return information to Federal, State,  
7 and local agencies administering certain programs) is  
8 amended—

9 (1) in clause (vii), by striking “and” at the end;

10 (2) in clause (viii), by striking the period at the  
11 end and inserting “; and”;

12 (3) by inserting after clause (viii) the following  
13 new clause:

14 “(ix) any housing assistance program adminis-  
15 tered by the Department of Housing and Urban De-  
16 velopment that involves initial and periodic review of  
17 an applicant’s or participant’s income, except that  
18 return information may be disclosed under this  
19 clause only on written request by the Secretary of  
20 Housing and Urban Development and only for use  
21 by officers and employees of the Department of  
22 Housing and Urban Development with respect to ap-  
23 plicants for and participants in such programs.”;  
24 and

1 (4) by adding at the end thereof the following:

2 “Clause (ix) shall not apply after September 30,  
3 1998.”

4 (b) CONFORMING AMENDMENT.—The heading of  
5 paragraph (7) of section 6103(l) of such Code is amended  
6 by inserting after “CODE” the following: “, OR CERTAIN  
7 HOUSING ASSISTANCE PROGRAMS”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall take effect on the date of the enactment  
10 of this Act.

11 **SEC. 7904. USE OF RETURN INFORMATION FOR HEALTH**  
12 **COVERAGE CLEARINGHOUSE.**

13 (a) ESTABLISHMENT OF HEALTH COVERAGE CLEAR-  
14 INGHOUSE.—Part A of title XI (42 U.S.C. 1301 et seq.)  
15 is amended by adding at the end the following new section:

16 “THIRD PARTY LIABILITY CLEARINGHOUSE

17 “SEC. 1144. (a) ESTABLISHMENT OF CLEARING-  
18 HOUSE.—

19 “(1) IN GENERAL.—The Secretary shall estab-  
20 lish and operate a Third Party Liability Clearing-  
21 house (hereafter in this section referred to as the  
22 ‘Clearinghouse’) for the purpose of identifying third  
23 parties responsible for payment for health care items  
24 and services furnished to beneficiaries of the medi-  
25 care program under title XVIII and the medicaid  
26 program under title XIX.

1           “(2) DIRECTOR.—The Clearinghouse estab-  
2           lished pursuant to paragraph (1) shall be headed by  
3           a Director.

4           “(b) DATA BANK.—

5           “(1) MAINTENANCE OF INFORMATION.—The  
6           Clearinghouse shall maintain a data bank containing  
7           information obtained pursuant to section  
8           6103(l)(12) of the Internal Revenue Code of 1986.  
9           Information in the data bank shall be retained for  
10          not less than 1 year after the date the information  
11          was obtained.

12          “(2) DISCLOSURE OF INFORMATION IN DATA  
13          BANK.—The Director is authorized (subject to the  
14          restriction in section 6103(l)(12)(E)(i) of the Inter-  
15          nal Revenue Code of 1986) to disclose any informa-  
16          tion in the data bank established pursuant to para-  
17          graph (1) to the Commissioner of Social Security,  
18          the Secretary of the Treasury, employers, group  
19          health plans, the administrator of the medicare pro-  
20          gram under title XVIII, and the administrators of  
21          the medicaid program under title XIX, to the extent  
22          necessary to assist the administration of such pro-  
23          grams.

24          “(c) REQUIREMENT THAT EMPLOYERS FURNISH IN-  
25          FORMATION.—

1           “(1) IN GENERAL.—An employer shall furnish  
2           to the Director the information requested pursuant  
3           to section 6103(l)(12)(C)(i) of the Internal Revenue  
4           Code of 1986 within 60 days after receipt of such  
5           a request.

6           “(2) CIVIL MONEY PENALTY FOR FAILURE TO  
7           COOPERATE.—An employer (other than a Federal or  
8           other governmental entity) who willfully or repeat-  
9           edly fails to provide a timely and accurate response  
10          to a request for information pursuant to paragraph  
11          (1) shall be subject, in addition to any other pen-  
12          alties that may be prescribed by law, to a civil  
13          money penalty of not to exceed \$1,000 for each indi-  
14          vidual or individual’s spouse with respect to which  
15          such a request is made. The provisions of section  
16          1128A (other than subsections (a) and (b)) shall  
17          apply to such civil money penalty in the same man-  
18          ner as such provisions apply to penalties or proceed-  
19          ings under section 1128A(a).

20          “(d) COLLECTIONS FROM THIRD PARTIES.—The Di-  
21          rector is authorized, upon request by the administrator of  
22          the medicare program under title XVIII or any adminis-  
23          trator of the medicaid program under title XIX, to assist  
24          in the collection of amounts due from liable third parties

1 to reimburse costs incurred by such program for health  
2 care items and services.

3 “(e) FEES FOR CLEARINGHOUSE SERVICES.—The  
4 Director shall establish fees for services provided under  
5 section 6103(l)(12)(C)(ii) of the Internal Revenue Code  
6 of 1986 and subsection (d) which are designed to cover  
7 the full costs to the Clearinghouse of providing such serv-  
8 ices. Clearinghouse services under such section and sub-  
9 section shall be available subject to payment of such fees.

10 “(f) EVALUATION RESPONSIBILITIES.—The Director  
11 shall evaluate methods for improving—

12 “(1) procedures for the collection, management,  
13 and appropriate disclosure of health care coverage  
14 information, and

15 “(2) Federal laws and policies concerning third  
16 party liability for medical care.

17 “(g) DEFINITIONS.—For purposes of this section, the  
18 term ‘group health plan’ has the meaning given to such  
19 term in section 6103(l)(12)(G) of the Internal Revenue  
20 Code of 1986.”.

21 (b) DISCLOSURE OF TAX RETURN INFORMATION.—

22 (1) IN GENERAL.—Paragraph (12) of section  
23 6103(l) of the Internal Revenue Code of 1986, as  
24 amended by section 7303, is amended to read as fol-  
25 lows:

1           “(12) DISCLOSURE OF CERTAIN TAXPAYER RE-  
2           TURN INFORMATION FOR PURPOSES OF IDENTIFY-  
3           ING HEALTH INSURANCE COVERAGE OF CERTAIN IN-  
4           DIVIDUALS AND SPOUSES.—

5           “(A) RETURN INFORMATION FROM INTER-  
6           NAL REVENUE SERVICE.—The Secretary shall,  
7           upon written request from the Commissioner of  
8           Social Security (referred to in this subpara-  
9           graph as the ‘Commissioner’), disclose to the  
10          Commissioner available filing status and tax-  
11          payer identity information from the individual  
12          master files of the Internal Revenue Service re-  
13          lating to whether any individual identified by  
14          the Commissioner was a married individual (as  
15          defined in section 7703) for any specified year  
16          after 1986, and, if so, the name of the spouse  
17          of such individual and such spouse’s TIN.

18          “(B) RETURN INFORMATION FROM SOCIAL  
19          SECURITY ADMINISTRATION.—The Commis-  
20          sioner shall, upon written request from the Di-  
21          rector of the Third Party Liability Clearing-  
22          house (referred to in this subparagraph as the  
23          ‘Director’), disclose to the Director the follow-  
24          ing information with respect to the individuals,

1 and the spouses of such individuals, specified in  
2 subparagraph (A):

3 “(i) For each such individual who is  
4 identified as having received wages (as de-  
5 fined in section 3401(a)) above an amount  
6 (if any) specified by the Secretary of  
7 Health and Human Services from an em-  
8 ployer in a previous year—

9 “(I) the name and TIN of the in-  
10 dividual,

11 “(II) the name, address, and  
12 TIN of the employer, and

13 “(III) the information reported  
14 under section 6051(a)(10).

15 “(ii) For each individual who was  
16 identified as married under subparagraph  
17 (A) and whose spouse is identified as hav-  
18 ing received wages above an amount (if  
19 any) specified by the Secretary of Health  
20 and Human Services from an employer in  
21 a previous year—

22 “(I) the name and TIN of the in-  
23 dividual,

24 “(II) the name and TIN of the  
25 spouse,

1                   “(III) the name, address, and  
2                   TIN of the spouse’s employer, and

3                   “(IV) the information reported  
4                   under section 6051(a)(10) with re-  
5                   spect to the spouse.

6                   “(C) DISCLOSURE BY THIRD PARTY LI-  
7                   ABILITY CLEARINGHOUSE.—The Director may  
8                   (subject to the provisions of subparagraph (E))  
9                   disclose—

10                   “(i) with respect to the information  
11                   disclosed under subparagraph (B), to the  
12                   employer referred to in such subparagraph  
13                   the name and TIN of each individual iden-  
14                   tified under such subparagraph as having  
15                   received wages from the employer (here-  
16                   after referred to in this subparagraph as  
17                   the ‘employee’) for purposes of determining  
18                   during what period such employee or the  
19                   employee’s spouse may be (or have been)  
20                   covered under a group health plan of the  
21                   employer and what benefits are or were  
22                   covered under the plan (including the  
23                   name, address, and identifying number of  
24                   the plan),

1           “(ii) to the administrator of the medi-  
2           care program under title XVIII of the So-  
3           cial Security Act or to any administrator  
4           of the medicaid program under title XIX  
5           of such Act the information disclosed  
6           under subparagraph (B) and clause (i) for  
7           purposes of providing information concern-  
8           ing employment and group health coverage  
9           of individuals and individual’s spouses who  
10          are program beneficiaries,

11          “(iii) to any agent of such Director  
12          the information referred to in subpara-  
13          graph (B) for purposes of carrying out  
14          clauses (i) and (ii) on behalf of such Direc-  
15          tor, and

16          “(iv) to any person specified in sub-  
17          section (b)(2) of section 1144 of the Social  
18          Security Act, information in the data bank  
19          established pursuant to subsection (b)(1)  
20          of such section, for the purposes specified  
21          in such subsection.

22          “(D) DISCLOSURE BY CERTAIN PROGRAMS  
23          TO GROUP HEALTH PLANS.—The administrator  
24          of the medicare program under title XVIII of  
25          the Social Security Act or any administrator of

1 the medicaid program under title XIX of such  
2 Act may (subject to the provisions of subpara-  
3 graph (E)) disclose information concerning an  
4 employee or spouse disclosed to the Director  
5 pursuant to subparagraph (B) and redisclosed  
6 to such administrator pursuant to subpara-  
7 graph (C)—

8 “(i) to any group health plan which  
9 provides or provided coverage to such em-  
10 ployee or spouse, and

11 “(ii) to any agent of such adminis-  
12 trator,

13 for purposes of identifying, or collecting on  
14 claims under coverage of such employee or  
15 spouse under such group health plan.

16 “(E) SPECIAL RULES.—

17 “(i) RESTRICTIONS ON DISCLO-  
18 SURE.—Information may be disclosed  
19 under subparagraphs (A) through (D) only  
20 for purposes of, and to the extent nec-  
21 essary in, determining the extent to which  
22 any individual is covered under any group  
23 health plan.

24 “(ii) TIMELY RESPONSE TO RE-  
25 QUESTS.—Any request made under sub-

1 paragraph (A) or (B) shall be complied  
2 with as soon as possible but in no event  
3 later than 120 days after the date the re-  
4 quest was made.

5 “(F) DISCLOSURE CONCERNING ENFORCE-  
6 MENT ACTIVITIES.—The Secretary shall, upon  
7 written request from the Secretary of Health  
8 and Human Services, disclose to the Secretary  
9 of Health and Human Services the status of  
10 any activities undertaken (with respect to per-  
11 sons specified by the Secretary of Health and  
12 Human Services) to enforce the requirements of  
13 section 5000.

14 “(G) DEFINITIONS.—For purposes of this  
15 paragraph, the term ‘group health plan’ means  
16 any group health plan (as defined in section  
17 5000(b)).”.

18 (2) REPORTING OF GROUP HEALTH PLAN IN-  
19 FORMATION.—Section 6051(a) of the Internal Reve-  
20 nue Code of 1986 is amended—

21 (A) by striking “and” at the end of para-  
22 graph (8),

23 (B) by striking the period at the end of  
24 paragraph (9) and inserting “, and”, and

1 (C) by inserting after paragraph (9) the  
2 following new paragraph:

3 “(10) whether a group health plan (as defined  
4 in section 6103(l)(12)(G)) is available to the em-  
5 ployee and the plan coverage (single or family) elect-  
6 ed by such employee (if any).”.

7 (c) CONFORMING AMENDMENT.—Section 1862(b)(5)  
8 (42 U.S.C. 1395y(b)(5)), as amended by section 7303, is  
9 amended to read as follows:

10 “(5) IDENTIFICATION OF SECONDARY PAYER  
11 SITUATIONS.—In addition to any other information  
12 provided under this title to fiscal intermediaries and  
13 carriers, the Administrator shall disclose to such  
14 intermediaries and carriers (or to such a single  
15 intermediary or carrier as the Secretary may des-  
16 ignate) the information received under section  
17 6103(l)(12)(C)(ii) of the Internal Revenue Code of  
18 1986.”.

19 (d) EXCEPTION FROM PRIVACY ACT REQUIRE-  
20 MENTS.—Subsection (a)(8)(B) of section 552a of title 5,  
21 United States Code, is amended—

22 (1) in clause (v), by striking “; or” at the end;

23 (2) in clause (vi), by striking the semicolon at  
24 the end and inserting “; or”; and

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

3                   “(vii) matches performed pursuant to  
4 section 6103(l)(12) of the Internal Reve-  
5 nue Code of 1986 and section 1144 of the  
6 Social Security Act for the purpose of  
7 identifying third parties responsible for  
8 payment for health care items and services  
9 furnished to beneficiaries of certain Fed-  
10 eral and federally assisted programs;”.

11       (e) EFFECTIVE DATE.—The amendments made by  
12 this section shall take effect on April 1, 1995.

#### 13                   **PART IV—OTHER PROVISIONS**

#### 14       **SEC. 7950. DISALLOWANCE OF INTEREST ON CERTAIN** 15                   **OVERPAYMENTS OF TAX.**

16       (a) GENERAL RULE.—Subsection (e) of section 6611  
17 of the Internal Revenue Code of 1986 (relating to income  
18 tax refund within 45 days after return is filed) is amended  
19 to read as follows:

20           “(e) DISALLOWANCE OF INTEREST ON CERTAIN  
21 OVERPAYMENTS.—

22                   “(1) REFUNDS WITHIN 45 DAYS AFTER RETURN  
23 IS FILED.—If any overpayment of tax imposed by  
24 this title is refunded within 45 days after the last  
25 day prescribed for filing the return of such tax (de-

1       terminated without regard to any extension of time for  
2       filing the return) or, in the case of a return filed  
3       after such last date, is refunded within 45 days after  
4       the date the return is filed, no interest shall be al-  
5       lowed under subsection (a) on such overpayment.

6               “(2) REFUNDS AFTER CLAIM FOR CREDIT OR  
7       REFUND.—If—

8                       “(A) the taxpayer files a claim for a credit  
9                       or refund for any overpayment of tax imposed  
10                      by this title, and

11                     “(B) such overpayment is refunded within  
12                     45 days after such claim is filed,

13       no interest shall be allowed on such overpayment  
14       from the date the claim is filed until the day the re-  
15       fund is made.

16               “(3) IRS INITIATED ADJUSTMENTS.—If an ad-  
17       justment initiated by the Secretary, results in a re-  
18       fund or credit of an overpayment, interest on such  
19       overpayment shall be computed by subtracting 45  
20       days from the number of days interest would other-  
21       wise be allowed with respect to such overpayment.”

22       (b) EFFECTIVE DATES.—

23               (1) Paragraph (1) of section 6611(e) of the In-  
24       ternal Revenue Code of 1986 (as amended by sub-  
25       section (a)) shall apply in the case of returns the

1 due date for which (determined without regard to  
2 extensions) is on or after January 1, 1994.

3 (2) Paragraph (2) of section 6611(e) of such  
4 Code (as so amended) shall apply in the case of  
5 claims for credit or refund of any overpayment filed  
6 on or after January 1, 1995, regardless of the tax-  
7 able period to which such refund relates.

8 (3) Paragraph (3) of section 6611(e) of such  
9 Code (as so amended) shall apply in the case of any  
10 refund paid on or after January 1, 1995, regardless  
11 of the taxable period to which such refund relates.

12 **SEC. 7951. FEES FOR APPLICATIONS FOR ALCOHOL LABEL-**  
13 **ING AND FORMULA REVIEWS.**

14 (a) IN GENERAL.—The Secretary of the Treasury or  
15 his delegate (hereinafter in this section referred to as the  
16 ‘Secretary’) shall establish a program requiring the pay-  
17 ment of user fees for—

18 (1) requests for each certificate of alcohol label  
19 approval required under the Federal Alcohol Admin-  
20 istration Act (27 U.S.C. 201 et seq.) and for each  
21 request for exemption from such requirement, and

22 (2) requests for each formula review, and re-  
23 quests for each statement of process (including lab-  
24 oratory tests and analyses), under such Act or under  
25 chapter 51 of the Internal Revenue Code of 1986.

1 (b) PROGRAM CRITERIA.—

2 (1) IN GENERAL.—The fees charged under the  
3 program required by subsection (a) shall be deter-  
4 mined such that the Secretary estimates that the ag-  
5 gregate of such fees received during any fiscal year  
6 will be \$5,000,000.

7 (2) MINIMUM FEES.—The fee charged under  
8 the program required by subsection (a) shall not be  
9 less than—

10 (A) \$50 for each request referred to in  
11 subsection (a)(1), and

12 (B) \$250 for each request referred to in  
13 subsection (a)(2).

14 (c) APPLICATION OF SECTION.—Subsection (a) shall  
15 apply to requests made on or after the 90th day after the  
16 date of the enactment of this Act.

17 (d) DEPOSIT AND CREDIT AS OFFSETTING RE-  
18 CEIPTS.—The amounts collected by the Secretary under  
19 the program required by subsection (a) (to the extent such  
20 amounts do not exceed \$5,000,000) shall be deposited into  
21 the Treasury as offsetting receipts and ascribed to the al-  
22 cohol compliance program of the Bureau of Alcohol, To-  
23 bacco, and Firearms.

1 **SEC. 7952. USE OF HARBOR MAINTENANCE TRUST FUND**  
2 **AMOUNTS FOR ADMINISTRATIVE EXPENSES.**

3 (a) IN GENERAL.—Paragraph (3) of section 9505(c)  
4 of the Internal Revenue Code of 1986 (relating to expendi-  
5 tures from Harbor Maintenance Trust Fund) is amended  
6 to read as follows:

7 “(3) for the payment of all expenses of adminis-  
8 tration incurred by the Department of the Treasury,  
9 the Army Corps of Engineers, and the Department  
10 of Commerce related to the administration of sub-  
11 chapter A of chapter 36 (relating to harbor mainte-  
12 nance tax), but not in excess of \$5,000,000 for any  
13 fiscal year.”

14 (b) EFFECTIVE DATE.—The amendment made by  
15 subsection (a) shall apply to fiscal years beginning after  
16 the date of the enactment of this Act.

17 **SEC. 7953. INCREASE IN PRESIDENTIAL ELECTION CAM-**  
18 **PAIGN FUND CHECK-OFF.**

19 (a) IN GENERAL.—Section 6096(a) of the Internal  
20 Revenue Code of 1986 (relating to designation by individ-  
21 uals) is amended—

22 (1) by striking “\$1” each place it appears and  
23 inserting “\$3”, and

24 (2) by striking “\$2” and inserting “\$6”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) apply with respect to tax returns required  
3 to be filed after December 31, 1993.

4 **SEC. 7954. INCREASE IN PUBLIC DEBT LIMIT.**

5 (a) GENERAL RULE.—Subsection (b) of section 3101  
6 of title 31, United States Code, is amended by striking  
7 out the dollar limitation contained in such subsection and  
8 inserting in lieu thereof “\$4,900,000,000,000”.

9 (b) REPEAL OF TEMPORARY INCREASE.—Effective  
10 on and after the date of the enactment of this Act, section  
11 1 of Public Law 103–12 is hereby repealed.

12 **TITLE VIII—FINANCE COMMIT-**  
13 **TEE REVENUE PROVISIONS**

14 **SEC. 8000. SHORT TITLE; ETC.**

15 (a) SHORT TITLE.—This title may be cited as the  
16 “Revenue Reconciliation Act of 1993”.

17 (b) AMENDMENT TO 1986 CODE.—Except as other-  
18 wise expressly provided, whenever in this title an amend-  
19 ment or repeal is expressed in terms of an amendment  
20 to, or repeal of, a section or other provision, the reference  
21 shall be considered to be made to a section or other provi-  
22 sion of the Internal Revenue Code of 1986.

23 (c) SECTION 15 NOT TO APPLY.—Except in the case  
24 of the amendments made by section 8221 (relating to cor-  
25 porate rate increase), no amendment made by this title

1 shall be treated as a change in a rate of tax for purposes  
2 of section 15 of the Internal Revenue Code of 1986.

3 (d) WAIVER OF ESTIMATED TAX PENALTIES.—No  
4 addition to tax shall be made under section 6654 or 6655  
5 of the Internal Revenue Code of 1986 for any period be-  
6 fore April 16, 1994 (March 16, 1994, in the case of a  
7 corporation), with respect to any underpayment to the ex-  
8 tent such underpayment was created or increased by any  
9 provision of this title.

10 (e) TABLE OF CONTENTS.—

Sec. 8000. Short title; etc.

Subtitle A—Training and Investment Incentives

PART I—PROVISIONS RELATING TO EDUCATION AND TRAINING

Sec. 8101. Employer-provided educational assistance.

Sec. 8102. Targeted jobs credit.

PART II—INVESTMENT INCENTIVES

SUBPART A—RESEARCH CREDIT

Sec. 8111. Extension of research credit.

Sec. 8112. Modification of fixed base percentage for startup companies.

SUBPART B—MODIFICATION TO MINIMUM TAX DEPRECIATION RULES

Sec. 8115. Modification to minimum tax depreciation rules.

SUBPART C—INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES

Sec. 8119. Increase in expense treatment for small businesses.

SUBPART D—TAX EXEMPT BONDS

Sec. 8121. Extension of qualified small issue bonds.

PART III—EXPANSION AND SIMPLIFICATION OF EARNED INCOME TAX  
CREDIT

Sec. 8131. Expansion and simplification of earned income tax credit.

PART IV—INCENTIVES FOR INVESTMENT IN REAL ESTATE

SUBPART A—EXTENSION OF QUALIFIED MORTGAGE BONDS AND LOW-INCOME HOUSING CREDIT

- Sec. 8141. Extension of qualified mortgage bonds.
- Sec. 8142. Low-income housing credit.

SUBPART B—PASSIVE LOSS RULES

- Sec. 8143. Modification of passive loss rules.

SUBPART C—PROVISIONS RELATING TO REAL ESTATE INVESTMENTS BY PENSION FUNDS

- Sec. 8144. Real estate property acquired by a qualified organization.
- Sec. 8145. Repeal of special treatment of publicly treated partnerships.
- Sec. 8146. Title-holding companies permitted to receive small amounts of unrelated business taxable income.
- Sec. 8147. Exclusion from unrelated business tax of gains from certain property.
- Sec. 8148. Exclusion from unrelated business tax of certain fees and option premiums.
- Sec. 8149. Treatment of pension fund investments in real estate investment trusts.

SUBPART D—INCREASE IN RECOVERY PERIOD FOR NONRESIDENTIAL REAL PROPERTY

- Sec. 8151. Increase in recovery period for nonresidential real property.

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- Sec. 8161. Repeal of luxury excise taxes other than on passenger vehicles.
- Sec. 8162. Exemption from luxury excise tax for certain equipment installed on passenger vehicles for use by disabled individuals.
- Sec. 8163. Tax on diesel fuel used in noncommercial boats.

PART VI—OTHER CHANGES

- Sec. 8171. Alternative minimum tax treatment of contributions of appreciated property.
- Sec. 8172. Substantiation requirement for deduction of certain charitable contributions.
- Sec. 8173. Disclosure related to quid pro quo contributions.
- Sec. 8174. Certain transfers to railroad retirement account made permanent.
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Subtitle B—Revenue Increases

PART I—PROVISIONS AFFECTING INDIVIDUALS

SUBPART A—RATE INCREASES

- Sec. 8201. Increase in top marginal rate under section 1.
- Sec. 8202. Surtax on high-income taxpayers.
- Sec. 8203. Modifications to alternative minimum tax rates and exemption amounts.
- Sec. 8203A. Rate increases not to take effect until July 1, 1993.

- Sec. 8204. Overall limitation on itemized deductions for high-income taxpayers made permanent.
- Sec. 8205. Phaseout of personal exemption of high-income taxpayers made permanent.
- Sec. 8206. Provisions to prevent conversion of ordinary income to capital gain.

SUBPART B—OTHER PROVISIONS

- Sec. 8207. Repeal of limitation on amount of wages subject to health insurance employment tax.
- Sec. 8208. Top estate and gift tax rates made permanent.
- Sec. 8209. Reduction in deductible portion of business meals and entertainment.
- Sec. 8210. Elimination of deduction for club membership fees.
- Sec. 8211. Disallowance of deduction for certain employee remuneration in excess of \$1,000,000.
- Sec. 8212. Reduction in compensation taken into account in determining contributions and benefits under qualified retirement plans.
- Sec. 8213. Modification to deduction for certain moving expenses.
- Sec. 8214. Simplification of individual estimated tax safe harbor based on last year's tax.
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- Sec. 8221. Increase in top marginal rate under section 11.
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SUBPART A—CURRENT TAXATION OF CERTAIN EARNINGS OF CONTROLLED FOREIGN CORPORATIONS

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- Sec. 8232. Modification to taxation of investment in United States property.
- Sec. 8233. Other modifications to Subpart F.

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- Sec. 8234. Allocation of research and experimental expenditures.

SUBPART C—OTHER PROVISIONS

- Sec. 8235. Repeal of certain exceptions for working capital.
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## SUBPART A—TRANSPORTATION FUELS TAX

Sec. 8241. Transportation fuels tax.

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Sec. 8244. Extension of motor fuel tax rates; increased deposits into Highway Trust Fund.

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1                   **Subtitle A—Training and**  
 2                   **Investment Incentives**

3                   **PART I—PROVISIONS RELATING TO EDUCATION**  
 4                   **AND TRAINING**

5                   **SEC. 8101. EMPLOYER-PROVIDED EDUCATIONAL ASSIST-**  
 6                   **ANCE.**

7                   (a) EXTENSION OF EXCLUSION.—

8                   (1) IN GENERAL.—Subsection (d) of section  
 9                   127 (relating to educational assistance programs) is  
 10                  amended to read as follows:

11                  “(d) TERMINATION.—

1           “(1) IN GENERAL.—This section shall not apply  
2 to taxable years beginning after June 30, 1994.

3           “(2) SPECIAL RULE.—In the case of any tax-  
4 able year beginning in 1994, only amounts paid be-  
5 fore July 1, 1994, by the employer for educational  
6 assistance for any employee shall be taken into ac-  
7 count for purposes of this section.”

8           (2) CONFORMING AMENDMENT.—Paragraph (2)  
9 of section 103(a) of the Tax Extension Act of 1991  
10 is hereby repealed.

11          (b) COORDINATION WITH SECTION 132.—Paragraph  
12 (8) of section 132(i) is amended to read as follows:

13           “(8) APPLICATION OF SECTION TO OTHERWISE  
14 TAXABLE EDUCATIONAL OR TRAINING BENEFITS.—  
15 Amounts paid or expenses incurred by the employer  
16 for education or training provided to the employee  
17 which are not excludable from gross income under  
18 section 127 shall be excluded from gross income  
19 under this section if (and only if) such amounts or  
20 expenses are a working condition fringe.”

21          (c) EFFECTIVE DATES.—

22           (1) SUBSECTION (a).—The amendments made  
23 by subsection (a) shall apply to taxable years ending  
24 after June 30, 1992.

1           (2) SUBSECTION (b).—The amendment made  
2           by subsection (b) shall apply to taxable years begin-  
3           ning after December 31, 1988.

4   **SEC. 8102. TARGETED JOBS CREDIT.**

5           (a) EXTENSION OF CREDIT.—Paragraph (4) of sec-  
6           tion 51(c) (relating to amount of targeted jobs credit) is  
7           amended by striking “1992” and inserting “1994”.

8           (b) EFFECTIVE DATE.—The amendment made by  
9           subsection (a) shall apply to individuals who begin work  
10          for the employer after June 30, 1992.

11                   **PART II—INVESTMENT INCENTIVES**

12                           **Subpart A—Research Credit**

13   **SEC. 8111. EXTENSION OF RESEARCH CREDIT.**

14          (a) IN GENERAL.—Subsection (h) of section 41 (re-  
15          lating to credit for research activities) is amended to read  
16          as follows:

17               “(h) NONAPPLICABILITY.—

18                   “(1) IN GENERAL.—This section shall not apply  
19                   to amounts paid or incurred during any suspension  
20                   period.

21                   “(2) BASE AMOUNT.—In the case of any tax-  
22                   able year which includes a portion of any suspension  
23                   period, the base amount with respect to such taxable  
24                   year shall be the amount which bears the same ratio  
25                   to the base amount for such year (determined with-

1 out regard to this paragraph) as the number of days  
2 in such taxable year which are not in any suspension  
3 period bears to the total number of days in such tax-  
4 able year.

5 “(3) FIXED-BASE PERCENTAGE.—The fixed-  
6 base percentage under subsection (c)(3)(B)(ii) shall  
7 be computed as if this section were in effect during  
8 any suspension period.

9 “(4) SUSPENSION PERIOD.—For purposes of  
10 this subsection, the term ‘suspension period’ in-  
11 cludes—

12 “(A) the period beginning July 1, 1992,  
13 and ending June 30, 1993, and

14 “(B) any period after June 30, 1994.”

15 (b) CONFORMING AMENDMENT.—Subparagraph (D)  
16 of section 28(b)(1) is amended by striking “for periods  
17 after June 30, 1992” and inserting “during any suspen-  
18 sion period (as defined in section 41(h)(4))”.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to taxable years ending after June  
21 30, 1992.

22 **SEC. 8112. MODIFICATION OF FIXED BASE PERCENTAGE**  
23 **FOR STARTUP COMPANIES.**

24 (a) GENERAL RULE.—Clause (ii) of section  
25 41(c)(3)(B) is amended to read as follows:

1           “(ii) FIXED-BASE PERCENTAGE.—In a  
2 case to which this subparagraph applies,  
3 the fixed-base percentage is—

4           “(I) 3 percent for each of the  
5 taxpayer’s 1st 5 taxable years begin-  
6 ning after December 31, 1993, for  
7 which the taxpayer has qualified re-  
8 search expenses,

9           “(II) in the case of the tax-  
10 payer’s 6th such taxable year,  $\frac{1}{6}$  of  
11 the percentage which the aggregate  
12 qualified research expenses of the tax-  
13 payer for the 4th and 5th such tax-  
14 able years is of the aggregate gross  
15 receipts of the taxpayer for such  
16 years,

17           “(III) in the case of the tax-  
18 payer’s 7th such taxable year,  $\frac{1}{3}$  of  
19 the percentage which the aggregate  
20 qualified research expenses of the tax-  
21 payer for the 5th and 6th such tax-  
22 able years is of the aggregate gross  
23 receipts of the taxpayer for such  
24 years,

1           “(IV) in the case of the tax-  
2           payer’s 8th such taxable year,  $\frac{1}{2}$  of  
3           the percentage which the aggregate  
4           qualified research expenses of the tax-  
5           payer for the 5th, 6th, and 7th such  
6           taxable years is of the aggregate gross  
7           receipts of the taxpayer for such  
8           years,

9           “(V) in the case of the taxpayer’s  
10          9th such taxable year,  $\frac{2}{3}$  of the per-  
11          centage which the aggregate qualified  
12          research expenses of the taxpayer for  
13          the 5th, 6th, 7th, and 8th such tax-  
14          able years is of the aggregate gross  
15          receipts of the taxpayer for such  
16          years,

17          “(VI) in the case of the tax-  
18          payer’s 10th such taxable year,  $\frac{5}{6}$  of  
19          the percentage which the aggregate  
20          qualified research expenses of the tax-  
21          payer for the 5th, 6th, 7th, 8th, and  
22          9th such taxable years is of the aggre-  
23          gate gross receipts of the taxpayer for  
24          such years, and

1                   “(VII) for taxable years there-  
2                   after, the percentage which the aggre-  
3                   gate qualified research expenses for  
4                   any 5 taxable years selected by the  
5                   taxpayer from among the 5th through  
6                   the 10th such taxable years is of the  
7                   aggregate gross receipts of the tax-  
8                   payer for such selected years.”.

9                   (b) CONFORMING AMENDMENTS.—

10                   (1) Clause (iii) of section 41(c)(3)(B) is amend-  
11                   ed by striking “clause (i)” and inserting “clauses (i)  
12                   and (ii)”.

13                   (2) Subparagraph (D) of section 41(c)(3) is  
14                   amended by striking “subparagraph (A)” and insert-  
15                   ing “subparagraphs (A) and (B)(ii)”.

16                   (c) EFFECTIVE DATE.—The amendments made by  
17                   this section shall apply to taxable years beginning after  
18                   December 31, 1993.

19                   **Subpart B—Modification To Minimum Tax**

20                   **Depreciation Rules**

21                   **SEC. 8115. MODIFICATION TO MINIMUM TAX DEPRECIATION RULES.**

22                   

23                   (a) ELIMINATION OF ACE DEPRECIATION ADJUST-  
24                   MENT.—Clause (i) of section 56(g)(4)(A) (relating to de-  
25                   preciation adjustments for computing adjusted current

1 earnings) is amended by adding at the end thereof the  
2 following new sentence: “The preceding sentence shall not  
3 apply to any property placed in service after December  
4 31, 1993, and the depreciation deduction with respect to  
5 such property shall be determined under the rules of sub-  
6 section (a)(1)(A).”.

7 (b) EFFECTIVE DATES.—

8 (1) IN GENERAL.—Except as provided in para-  
9 graph (2), the amendments made by this section  
10 shall apply to property placed in service after De-  
11 cember 31, 1993.

12 (2) COORDINATION WITH TRANSITIONAL  
13 RULES.—The amendments made by this section  
14 shall not apply to any property to which paragraph  
15 (1) of section 56(a) of the Internal Revenue Code of  
16 1986 does not apply by reason of subparagraph  
17 (C)(i) thereof.

18 **Subpart C—Increase in Expense Treatment for Small**  
19 **Businesses**

20 **SEC. 8119. INCREASE IN EXPENSE TREATMENT FOR SMALL**  
21 **BUSINESSES.**

22 (a) GENERAL RULE.—Paragraph (1) of section  
23 179(b) (relating to dollar limitation) is amended by strik-  
24 ing “\$10,000” and inserting “\$15,000”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall apply to taxable years beginning after  
3 December 31, 1992.

4 **Subpart D—Tax Exempt Bonds**

5 **SEC. 8121. EXTENSION OF QUALIFIED SMALL ISSUE BONDS.**

6 (a) IN GENERAL.—Subparagraph (B) of section  
7 144(a)(12) is amended by striking “1992” and inserting  
8 “1994”.

9 (b) EFFECTIVE DATE.—The amendment made by  
10 subsection (a) shall apply to bonds issued after June 30,  
11 1992.

12 **PART III—EXPANSION AND SIMPLIFICATION OF**  
13 **EARNED INCOME TAX CREDIT**

14 **SEC. 8131. EXPANSION AND SIMPLIFICATION OF EARNED**  
15 **INCOME TAX CREDIT.**

16 (a) GENERAL RULE.—Section 32 (relating to earned  
17 income credit) is amended by striking subsections (a) and  
18 (b) and inserting the following:

19 “(a) ALLOWANCE OF CREDIT.—

20 “(1) IN GENERAL.—In the case of an eligible  
21 individual, there shall be allowed as a credit against  
22 the tax imposed by this subtitle for the taxable year  
23 an amount equal to the credit percentage of so much  
24 of the taxpayer’s earned income for the taxable year  
25 as does not exceed the earned income amount.

1           “(2) LIMITATION.—The amount of the credit  
 2           allowable to a taxpayer under paragraph (1) for any  
 3           taxable year shall not exceed the excess (if any) of—

4                   “(A) the credit percentage of the earned  
 5           income amount, over

6                   “(B) the phaseout percentage of so much  
 7           of the adjusted gross income (or, if greater, the  
 8           earned income) of the taxpayer for the taxable  
 9           year as exceeds the phaseout amount.

10          “(b) PERCENTAGES AND AMOUNTS.—For purposes  
 11 of subsection (a)—

12           “(1) PERCENTAGES.—The credit percentage  
 13           and the phaseout percentage shall be determined as  
 14           follows:

15                   “(A) IN GENERAL.—In the case of taxable  
 16           years beginning after 1995:

In the case of an eli- gible individual with:	The credit percentage is:	The phaseout percent- age is:
1 qualifying child .....	34 .....	16.16
2 or more qualifying children .....	39 .....	20.72

17           “(B) TRANSITIONAL PERCENTAGES FOR  
 18           1995.—In the case of a taxable year beginning  
 19           in 1995:

In the case of an eli- gible individual with:	The credit percentage is:	The phaseout percent- age is:
1 qualifying child .....	34 .....	16.16
2 or more qualifying children .....	34 .....	15.94

1           “(C) TRANSITIONAL PERCENTAGES FOR  
2           1994.—In the case of a taxable year beginning  
3           in 1994:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child .....	26 .....	16.16
2 or more qualifying children .....	30 .....	15.94

4           “(2) AMOUNTS.—The earned income amount  
5           and the phaseout amount shall be determined as follows:  
6           

7           “(A) IN GENERAL.—In the case of taxable  
8           years beginning after 1994:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child .....	\$6,000 .....	\$11,000
2 or more qualifying children .....	\$8,500 .....	\$11,000

9           “(B) TRANSITIONAL AMOUNTS.—In the  
10          case of a taxable year beginning in 1994:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child .....	\$7,750 .....	\$11,000
2 or more qualifying children .....	\$8,500 .....	\$11,000.”

11          (b) INFLATION ADJUSTMENTS.—Section 32(i) (relat-  
12          ing to inflation adjustments) is amended—

13                 (1) by striking paragraphs (1) and (2) and inserting the following new paragraph:

15                 “(1) IN GENERAL.—In the case of any taxable  
16          year beginning after 1994, each dollar amount con-

1 tained in subsection (b)(2)(A) shall be increased by  
2 an amount equal to—

3 “(A) such dollar amount, multiplied by

4 “(B) the cost-of-living adjustment deter-  
5 mined under section 1(f)(3), for the calendar  
6 year in which the taxable year begins, by sub-  
7 stituting ‘calendar year 1993’ for ‘calendar year  
8 1992.’”, and

9 (2) by redesignating paragraph (3) as para-  
10 graph (2).

11 (c) CONFORMING AMENDMENTS.—

12 (1) Subparagraph (D) of section 32(c)(3) is  
13 amended—

14 (A) by striking “clause (i) or (ii)” in clause  
15 (iii) and inserting “clause (i)”,

16 (B) by striking clause (ii), and

17 (C) by redesignating clause (iii) as clause  
18 (ii).

19 (2) Paragraph (3) of section 162(l) is amended  
20 to read as follows:

21 “(3) COORDINATION WITH MEDICAL DEDUC-  
22 TION.—Any amount paid by a taxpayer for insur-  
23 ance to which paragraph (1) applies shall not be  
24 taken into account in computing the amount allow-

1 able to the taxpayer as a deduction under section  
2 213(a).”

3 (3) Section 213 is amended by striking sub-  
4 section (f).

5 (4) Subsection (b) of section 3507 is amended  
6 by redesignating paragraphs (2) and (3) as para-  
7 graphs (3) and (4), respectively, and by inserting  
8 after paragraph (1) the following new paragraph:

9 “(2) certifies that the employee has 1 or more  
10 qualifying children (within the meaning of section  
11 32(c)(3)) for such taxable year.”

12 (5) Subparagraph (B) of section 3507(c)(2) is  
13 amended by striking clauses (i) and (ii) and insert-  
14 ing the following:

15 “(i) of not more than the credit per-  
16 centage in effect under section 32(b)(1) for  
17 an eligible individual with 1 qualifying  
18 child and with earned income not in excess  
19 of the earned income amount in effect  
20 under section 32(b)(2) for such an eligible  
21 individual, which

22 “(ii) phases out at the phaseout per-  
23 centage in effect under section 32(b)(1) for  
24 such an eligible individual between the  
25 phaseout amount in effect under section

1                   32(b)(2) for such an eligible individual and  
2                   the amount of earned income at which the  
3                   credit under section 32(a) phases out for  
4                   such an eligible individual, or”.

5           (d) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to taxable years beginning after  
7 December 31, 1993.

8           **PART IV—INCENTIVES FOR INVESTMENT IN**  
9   **REAL ESTATE**

10          **Subpart A—Extension of Qualified Mortgage Bonds**  
11   **and Low-Income Housing Credit**

12          **SEC. 8141. EXTENSION OF QUALIFIED MORTGAGE BONDS.**

13           (a) IN GENERAL.—Subparagraph (B) of section  
14 143(a)(1) (defining qualified mortgage bond) is amended  
15 by striking “1992” each place it appears and inserting  
16 “1994”.

17           (b) MORTGAGE CREDIT CERTIFICATES.—Subsection  
18 (h) of section 25 is amended by striking “1992” and in-  
19 serting “1994”.

20           (c) EFFECTIVE DATES.—

21                   (1) BONDS.—The amendment made by sub-  
22 section (a) shall apply to bonds issued after June  
23 30, 1992.

1           (2) CERTIFICATES.—The amendment made by  
2           subsection (b) shall apply to elections for periods  
3           after June 30, 1992.

4 **SEC. 8142. LOW-INCOME HOUSING CREDIT.**

5           (a) PERMANENT EXTENSION.—

6           (1) IN GENERAL.—Section 42 (relating to low-  
7           income housing credit) is amended by striking sub-  
8           section (o).

9           (2) EFFECTIVE DATE.—The amendments made  
10          by paragraph (1) shall apply to periods ending after  
11          June 30, 1992.

12          (b) MODIFICATIONS.—

13           (1) HOUSING CREDIT AGENCY DETERMINATION  
14           OF REASONABLENESS OF PROJECT COSTS.—Sub-  
15           paragraph (B) of section 42(m)(2) (relating to credit  
16           allocated to building not to exceed amount necessary  
17           to assure project feasibility) is amended—

18                   (A) by striking “and” at the end of clause

19                   (ii),

20                   (B) by striking the period at the end of  
21                   clause (iii) and inserting “, and”, and

22                   (C) by inserting after clause (iii) the fol-  
23                   lowing new clause:

1           “(iv) the reasonableness of the devel-  
2           opmental and operational costs of the  
3           project.”

4           (2) UNITS WITH CERTAIN FULL-TIME STU-  
5           DENTS NOT DISQUALIFIED.—Subparagraph (D) of  
6           section 42(i)(3) (defining low-income unit) is amend-  
7           ed to read as follows:

8           “(D) CERTAIN STUDENTS NOT TO DIS-  
9           QUALIFY UNIT.—A unit shall not fail to be  
10          treated as a low-income unit merely because it  
11          is occupied—

12                 “(i) by an individual who is—

13                         “(I) a student and receiving as-  
14                         sistance under title IV of the Social  
15                         Security Act, or

16                         “(II) enrolled in a job training  
17                         program receiving assistance under  
18                         the Job Training Partnership Act or  
19                         under other similar Federal, State, or  
20                         local laws, or

21                         “(ii) entirely by full-time students if  
22                         such students are—

23                                 “(I) single parents and their chil-  
24                                 dren and such parents and children

1                   are not dependents (as defined in sec-  
2                   tion 152) of another individual, or

3                   “(II) married and file a joint re-  
4                   turn.”

5                   (3) TREASURY WAIVERS OF CERTAIN DE  
6                   MINIMIS ERRORS AND RECERTIFICATIONS.—Sub-  
7                   section (g) of section 42 (relating to qualified low-  
8                   income housing projects) is amended by adding at  
9                   the end thereof the following new paragraph:

10                   “(8) WAIVER OF CERTAIN DE MINIMIS ERRORS  
11                   AND RECERTIFICATIONS.—On application by the  
12                   taxpayer, the Secretary may waive—

13                   “(A) any recapture under subsection (j) in  
14                   the case of any de minimis error in complying  
15                   with paragraph (1), or

16                   “(B) any annual recertification of tenant  
17                   income for purposes of this subsection, if the  
18                   entire building is occupied by low-income ten-  
19                   ants.”

20                   (4) DISCRIMINATION AGAINST TENANTS PRO-  
21                   HIBITED.—Section 42(h)(6)(B) (defining extended  
22                   low-income housing commitment) is amended by re-  
23                   designating clauses (iv) and (v) as clauses (v) and  
24                   (vi) and by inserting after clause (iii) the following  
25                   new clause:

1           “(iv) which prohibits the refusal to  
2           lease to a holder of a voucher or certificate  
3           of eligibility under section 8 of the United  
4           States Housing Act of 1937 because of the  
5           status of the prospective tenant as such a  
6           holder,”.

7           (5) EFFECTIVE DATES.—

8           (A) IN GENERAL.—Except as provided in  
9           subparagraph (B), the amendments made by  
10          this subsection shall apply to—

11           (i) determinations under section 42 of  
12          the Internal Revenue Code of 1986 with  
13          respect to housing credit dollar amounts  
14          allocated from State housing credit ceilings  
15          after June 30, 1992, or

16           (ii) buildings placed in service after  
17          June 30, 1992, to the extent paragraph  
18          (1) of section 42(h) of such Code does not  
19          apply to any building by reason of para-  
20          graph (4) thereof, but only with respect to  
21          bonds issued after such date.

22           (B) WAIVER AUTHORITY AND PROHIBITED  
23          DISCRIMINATION.—The amendments made by  
24          paragraphs (3) and (4) shall take effect on the  
25          date of the enactment of this Act.

1 (c) ELECTION TO DETERMINE RENT LIMITATION  
 2 BASED ON NUMBER OF BEDROOMS AND DEEP RENT  
 3 SKEWING.—In the case of a building to which the amend-  
 4 ments made by subsection (e)(1) or (n)(2) of section 7108  
 5 of the Revenue Reconciliation Act of 1989 did not apply,  
 6 the taxpayer may elect to have such amendments apply  
 7 to such building but only with respect to tenants first oc-  
 8 cupying any unit in the building after the date of the elec-  
 9 tion, and only if the taxpayer has met the requirements  
 10 of the procedures described in section 42(m)(1)(B)(iii) of  
 11 the Internal Revenue Code of 1986. Such an election may  
 12 be made only during the 180 day period beginning on the  
 13 date of the enactment of this Act and, once made, shall  
 14 be irrevocable.

15 **Subpart B—Passive Loss Rules**

16 **SEC. 8143. MODIFICATION OF PASSIVE LOSS RULES.**

17 (a) GENERAL RULE.—Section 469 (relating to pas-  
 18 sive activity losses and credits limited) is amended by re-  
 19 designating subsections (l) and (m) as subsections (m) and  
 20 (n), respectively, and by inserting after subsection (k) the  
 21 following new subsection:

22 “(l) SPECIAL RULES FOR REAL ESTATE ACTIVI-  
 23 TIES.—

24 “(1) LOSS FROM CERTAIN RENTAL REAL ES-  
 25 TATE ACTIVITIES TREATED AS NOT PASSIVE.—If the

1 taxpayer meets the requirements of paragraph (2)  
2 for the taxable year, subsection (a) shall not apply  
3 to so much of the passive activity loss for such tax-  
4 able year as does not exceed the least of—

5 “(A) the lesser of—

6 “(i) the net loss for such taxable year  
7 from rental real estate activities in which  
8 the taxpayer materially participates, or

9 “(ii) the net loss for such taxable year  
10 from all rental real estate activities of the  
11 taxpayer,

12 “(B) the net income of the taxpayer for  
13 the taxable year from real property trade or  
14 business activities which are not passive activi-  
15 ties, or

16 “(C) the taxable income of the taxpayer  
17 for the taxable year determined without regard  
18 to this subsection.

19 A similar rule shall apply to any passive activity  
20 credit.

21 “(2) REQUIREMENTS.—The taxpayer meets the  
22 requirements of this paragraph for any taxable year  
23 if more than one-half of the personal services per-  
24 formed in trades or businesses by the taxpayer dur-  
25 ing such taxable year are performed in real property

1 trades or businesses in which the taxpayer materially  
2 participates.

3 “(3) REAL PROPERTY TRADE OR BUSINESS.—  
4 For purposes of this paragraph, the term ‘real prop-  
5 erty trade or business’ means any real property de-  
6 velopment, redevelopment, construction, reconstruc-  
7 tion, acquisition, conversion, rental, operation, man-  
8 agement, leasing, or brokerage trade or business.

9 “(4) SPECIAL RULES.—

10 “(A) PERSONAL SERVICES AS AN EM-  
11 PLOYEE.—For purposes of paragraph (2), per-  
12 sonal services performed as an employee shall  
13 not be treated as performed in real property  
14 trades or businesses. The preceding sentence  
15 shall not apply if such employee is a 5-percent  
16 owner (as defined in section 416(i)(1)(B)) in  
17 the employer.

18 “(B) CLOSELY HELD C CORPORATIONS.—  
19 This subsection shall not apply to any interests  
20 held by a closely held C corporation.

21 “(5) COORDINATION WITH SUBSECTION (i).—

22 “(A) IN GENERAL.—This subsection shall  
23 be applied after the application of subsection  
24 (i).

1           “(B) AMOUNTS ALLOWED UNDER SUB-  
2 SECTION (i).—For purposes of this sub-  
3 section—

4                   “(i) the passive activity loss and pas-  
5 sive activity credit, and

6                   “(ii) the net loss referred to in para-  
7 graph (1)(A),

8 shall not include any amount allowed under  
9 subsection (i).”

10       (b) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to taxable years beginning after  
12 December 31, 1993.

13       **Subpart C—Provisions Relating to Real Estate**

14                   **Investments by Pension Funds**

15       **SEC. 8144. REAL ESTATE PROPERTY ACQUIRED BY A**  
16                   **QUALIFIED ORGANIZATION.**

17       (a) MODIFICATIONS OF EXCEPTIONS.—Paragraph  
18 (9) of section 514(c) (relating to real property acquired  
19 by a qualified organization) is amended by adding at the  
20 end thereof the following new subparagraphs:

21                   “(G) SPECIAL RULES FOR PURPOSES OF  
22 THE EXCEPTIONS.—Except as otherwise pro-  
23 vided by regulations—

24                   “(i) SMALL LEASES DISREGARDED.—  
25 For purposes of clauses (iii) and (iv) of

1           subparagraph (B), a lease to a person de-  
2           scribed in such clause (iii) or (iv) shall be  
3           disregarded if no more than 25 percent of  
4           the leasable floor space in a building (or  
5           complex of buildings) is covered by the  
6           lease and if the lease is on commercially  
7           reasonable terms.

8           “(ii) COMMERCIALY REASONABLE FI-  
9           NANCING.—Clause (v) of subparagraph (B)  
10          shall not apply if the financing is on com-  
11          mercially reasonable terms.

12          “(H) QUALIFYING SALES BY FINANCIAL  
13          INSTITUTIONS.—

14               “(i) IN GENERAL.—In the case of a  
15               qualifying sale by a financial institution,  
16               except as provided in regulations, clauses  
17               (i) and (ii) of subparagraph (B) shall not  
18               apply with respect to financing provided by  
19               such institution for such sale.

20               “(ii) QUALIFYING SALE.—For pur-  
21               poses of this clause, there is a qualifying  
22               sale by a financial institution if—

23                       “(I) a qualified organization ac-  
24                       quires property described in clause  
25                       (iii) from a financial institution and

1 any gain recognized by the financial  
2 institution with respect to the prop-  
3 erty is ordinary income,

4 “(II) the stated principal amount  
5 of the financing provided by the finan-  
6 cial institution does not exceed the  
7 amount of the outstanding indebted-  
8 ness (including accrued but unpaid in-  
9 terest) of the financial institution with  
10 respect to the property described in  
11 clause (iii) immediately before the ac-  
12 quisition referred to in clause (iii) or  
13 (v), whichever is applicable, and

14 “(III) the present value (deter-  
15 mined as of the time of the sale and  
16 by using the applicable Federal rate  
17 determined under section 1274(d)) of  
18 the maximum amount payable pursu-  
19 ant to the financing that is deter-  
20 mined by reference to the revenue, in-  
21 come, or profits derived from the  
22 property cannot exceed 30 percent of  
23 the total purchase price of the prop-  
24 erty (including the contingent pay-  
25 ments).

1           “(iii) PROPERTY TO WHICH SUBPARA-  
2           GRAPH APPLIES.—Property is described in  
3           this clause if such property is foreclosure  
4           property, or is real property which—

5                   “(I) was acquired by the quali-  
6                   fied organization from a financial in-  
7                   stitution which is in conservatorship  
8                   or receivership, or from the conserva-  
9                   tor or receiver of such an institution,  
10                  and

11                  “(II) was held by the financial  
12                  institution at the time it entered into  
13                  conservatorship or receivership.

14           “(iv) FINANCIAL INSTITUTION.—For  
15           purposes of this subparagraph, the term  
16           ‘financial institution’ means—

17                   “(I) any financial institution de-  
18                   scribed in section 581 or 591(a),

19                   “(II) any other corporation which  
20                   is a direct or indirect subsidiary of an  
21                   institution referred to in subclause (I)  
22                   but only if, by virtue of being affili-  
23                   ated with such institution, such other  
24                   corporation is subject to supervision  
25                   and examination by a Federal or

1 State agency which regulates institu-  
2 tions referred to in subclause (I), and

3 “(III) any person acting as a  
4 conservator or receiver of an entity re-  
5 ferred to in subclause (I) or (II) (or  
6 any government agency or corporation  
7 succeeding to the rights or interest of  
8 such person).

9 “(v) FORECLOSURE PROPERTY.—For  
10 purposes of this subparagraph, the term  
11 ‘foreclosure property’ means any real prop-  
12 erty acquired by the financial institution as  
13 the result of having bid on such property  
14 at foreclosure, or by operation of an agree-  
15 ment or process of law, after there was a  
16 default (or a default was imminent) on in-  
17 debtedness which such property secured.”.

18 (b) CONFORMING AMENDMENT.—Paragraph (9) of  
19 section 514(c) is amended—

20 (1) by adding the following new sentence at the  
21 end of subparagraph (A): “For purposes of this  
22 paragraph, an interest in a mortgage shall in no  
23 event be treated as real property.”, and

24 (2) by striking the last sentence of subpara-  
25 graph (B).

1 (c) EFFECTIVE DATES.—

2 (1) IN GENERAL.—The amendments made by  
3 this section shall apply to acquisitions on or after  
4 January 1, 1994.

5 (2) SMALL LEASES.—The provisions of section  
6 514(c)(9)(G)(i) of the Internal Revenue Code of  
7 1986 shall, in addition to any leases to which the  
8 provisions apply by reason of paragraph (1), apply  
9 to leases entered into on or after January 1, 1994.

10 **SEC. 8145. REPEAL OF SPECIAL TREATMENT OF PUBLICLY**  
11 **TREATED PARTNERSHIPS.**

12 (a) GENERAL RULE.—Subsection (c) of section 512  
13 is amended—

14 (1) by striking paragraph (2),

15 (2) by redesignating paragraph (3) as para-  
16 graph (2), and

17 (3) by striking “paragraph (1) or (2)” in para-  
18 graph (2) (as so redesignated) and inserting “para-  
19 graph (1)”.

20 (b) EFFECTIVE DATE.—The amendments made by  
21 subsection (a) shall apply to partnership years beginning  
22 on or after January 1, 1994.

1 **SEC. 8146. TITLE-HOLDING COMPANIES PERMITTED TO RE-**  
2 **CEIVE SMALL AMOUNTS OF UNRELATED**  
3 **BUSINESS TAXABLE INCOME.**

4 (a) GENERAL RULE.—Paragraph (25) of section  
5 501(c) is amended by adding at the end thereof the follow-  
6 ing new subparagraph:

7 “(G)(i) An organization shall not be treat-  
8 ed as failing to be described in this paragraph  
9 merely by reason of the receipt of any otherwise  
10 disqualifying income which is incidentally de-  
11 rived from the holding of real property.

12 “(ii) Clause (i) shall not apply if the  
13 amount of gross income described in such  
14 clause exceeds 10 percent of the organization’s  
15 gross income for the taxable year unless the or-  
16 ganization establishes to the satisfaction of the  
17 Secretary that the receipt of gross income de-  
18 scribed in clause (i) in excess of such limitation  
19 was inadvertent and reasonable steps are being  
20 taken to correct the circumstances giving rise to  
21 such income.”

22 (b) CONFORMING AMENDMENT.—Paragraph (2) of  
23 section 501(c) is amended by adding at the end thereof  
24 the following new sentence: “Rules similar to the rules of  
25 subparagraph (G) of paragraph (25) shall apply for pur-  
26 poses of this paragraph.”

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning on or  
3 after January 1, 1994.

4 **SEC. 8147. EXCLUSION FROM UNRELATED BUSINESS TAX**  
5 **OF GAINS FROM CERTAIN PROPERTY.**

6 (a) GENERAL RULE.—Subsection (b) of section 512  
7 (relating to modifications) is amended by adding at the  
8 end thereof the following new paragraph:

9 “(16)(A) Notwithstanding paragraph (5)(B),  
10 there shall be excluded all gains or losses from the  
11 sale, exchange, or other disposition of any real prop-  
12 erty described in subparagraph (B) if—

13 “(i) such property was acquired by the or-  
14 ganization from—

15 “(I) a financial institution described  
16 in section 581 or 591(a) which is in  
17 conservatorship or receivership, or

18 “(II) the conservator or receiver of  
19 such an institution (or any government  
20 agency or corporation succeeding to the  
21 rights or interests of the conservator or re-  
22 ceiver),

23 “(ii) such property is designated by the or-  
24 ganization within the 9-month period beginning  
25 on the date of its acquisition as property held

1 for sale, except that not more than one-half (by  
2 value determined as of such date) of property  
3 acquired in a single transaction may be so  
4 designated,

5 “(iii) such sale, exchange, or disposition  
6 occurs before the later of—

7 “(I) the date which is 30 months after  
8 the date of the acquisition of such prop-  
9 erty, or

10 “(II) the date specified by the Sec-  
11 retary in order to assure an orderly dis-  
12 position of property held by persons de-  
13 scribed in subparagraph (A), and

14 “(iv) while such property was held by the  
15 organization, the aggregate expenditures on im-  
16 provements and development activities included  
17 in the basis of the property are (or were) not  
18 in excess of 20 percent of the net selling price  
19 of such property.

20 “(B) Property is described in this subparagraph  
21 if it is real property which—

22 “(i) was held by the financial institution at  
23 the time it entered into conservatorship or re-  
24 ceivership, or

1           “(ii) was foreclosure property (as defined  
2           in section 514(c)(9)(H)(v)) which secured in-  
3           debtedness held by the financial institution at  
4           such time.

5           For purposes of this subparagraph, real property in-  
6           cludes an interest in a mortgage.”

7           (b) EFFECTIVE DATE.—The amendment made by  
8           subsection (a) shall apply to property acquired on or after  
9           January 1, 1994.

10   **SEC. 8148. EXCLUSION FROM UNRELATED BUSINESS TAX**  
11                           **OF CERTAIN FEES AND OPTION PREMIUMS.**

12           (a) LOAN COMMITMENT FEES.—Paragraph (1) of  
13           section 512(b) (relating to modifications) is amended by  
14           inserting “amounts received or accrued as consideration  
15           for entering into agreements to make loans,” before “and  
16           annuities”.

17           (b) OPTION PREMIUMS.—The second sentence of sec-  
18           tion 512(b)(5) is amended—

19                   (1) by striking “all gains on” and inserting “all  
20                   gains or losses recognized, in connection with the or-  
21                   ganization’s investment activities, from”,

22                   (2) by striking “, written by the organization in  
23                   connection with its investment activities,” and

24                   (3) by inserting “or real property and all gains  
25                   or losses from the forfeiture of good-faith deposits

1 (that are consistent with established business prac-  
2 tice) for the purchase, sale, or lease of real property  
3 in connection with the organization's investment ac-  
4 tivities" before the period.

5 (c) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to amounts received on or after  
7 January 1, 1994.

8 **SEC. 8149. TREATMENT OF PENSION FUND INVESTMENTS**  
9 **IN REAL ESTATE INVESTMENT TRUSTS.**

10 (a) GENERAL RULE.—Subsection (h) of section 856  
11 (relating to closely held determinations) is amended by  
12 adding at the end thereof the following new paragraph:

13 “(3) TREATMENT OF TRUSTS DESCRIBED IN  
14 SECTION 401(a).—

15 “(A) LOOK-THRU TREATMENT.—

16 “(i) IN GENERAL.—Except as pro-  
17 vided in clause (ii), in determining whether  
18 the stock ownership requirement of section  
19 542(a)(2) is met for purposes of paragraph  
20 (1)(A), any stock held by a qualified trust  
21 shall be treated as held directly by its  
22 beneficiaries in proportion to their actuar-  
23 ial interests in such trust and shall not be  
24 treated as held by such trust.

1           “(ii) CERTAIN RELATED TRUSTS NOT  
2           ELIGIBLE.—Clause (i) shall not apply to  
3           any qualified trust if one or more disquali-  
4           fied persons (as defined in section  
5           4975(e)(2), without regard to subpara-  
6           graphs (B) and (I) thereof) with respect to  
7           such qualified trust hold in the aggregate  
8           5 percent or more in value of the interests  
9           in the real estate investment trust and  
10          such real estate investment trust has accu-  
11          mulated earnings and profits attributable  
12          to any period for which it did not qualify  
13          as a real estate investment trust.

14          “(B) COORDINATION WITH PERSONAL  
15          HOLDING COMPANY RULES.—If any entity  
16          qualifies as a real estate investment trust for  
17          any taxable year by reason of subparagraph  
18          (A), such entity shall not be treated as a per-  
19          sonal holding company for such taxable year for  
20          purposes of part II of subchapter G of this  
21          chapter.

22          “(C) TREATMENT FOR PURPOSES OF UN-  
23          RELATED BUSINESS TAX.—If any qualified  
24          trust holds more than 10 percent (by value) of  
25          the interests in any pension-held REIT at any

1 time during a taxable year, the trust shall be  
2 treated as having for such taxable year gross  
3 income from an unrelated trade or business in  
4 an amount which bears the same ratio to the  
5 aggregate dividends paid (or treated as paid) by  
6 the REIT to the trust for the taxable year of  
7 the REIT with or within which the taxable year  
8 of the trust ends (the 'REIT year') as—

9 “(i) the gross income (less direct ex-  
10 penses related thereto) of the REIT for the  
11 REIT year from unrelated trades or busi-  
12 nesses (determined as if the REIT were a  
13 qualified trust), bears to

14 “(ii) the gross income (less direct ex-  
15 penses related thereto) of the REIT for the  
16 REIT year.

17 This subparagraph shall apply only if the ratio  
18 determined under the preceding sentence is at  
19 least 5 percent.

20 “(D) PENSION-HELD REIT.—The purposes  
21 of subparagraph (C)—

22 “(i) IN GENERAL.—A real estate in-  
23 vestment trust is a pension-held REIT if  
24 such trust would not have qualified as a  
25 real estate investment trust but for the

1 provisions of this paragraph and if such  
2 trust is predominantly held by qualified  
3 trusts.

4 “(ii) PREDOMINANTLY HELD.—For  
5 purposes of clause (i), a real estate invest-  
6 ment trust is predominantly held by quali-  
7 fied trusts if—

8 “(I) at least 1 qualified trust  
9 holds more than 25 percent (by value)  
10 of the interests in such real estate in-  
11 vestment trust, or

12 “(II) 1 or more qualified trusts  
13 (each of whom own more than 10 per-  
14 cent by value of the interests in such  
15 real estate investment trust) hold in  
16 the aggregate more than 50 percent  
17 (by value) of the interests in such real  
18 estate investment trust.

19 “(E) QUALIFIED TRUST.—For purposes of  
20 this paragraph, the term ‘qualified trust’ means  
21 any trust described in section 401(a) and ex-  
22 empt from tax under section 501(a).”

23 (b) EFFECTIVE DATE.—The amendment made by  
24 this section shall apply to taxable years beginning after  
25 December 31, 1993.

**Subpart D—Increase in Recovery Period for  
Nonresidential Real Property**

**SEC. 8151. INCREASE IN RECOVERY PERIOD FOR  
NONRESIDENTIAL REAL PROPERTY.**

(a) GENERAL RULE.—Paragraph (1) of section 168(c) (relating to applicable recovery period) is amended by striking the item relating to nonresidential real property and inserting the following:

“Nonresidential real property ..... 38 years.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to property placed in service by the taxpayer on or after February 25, 1993.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1994, if—

(A) the taxpayer or a qualified person entered into a binding written contract to purchase or construct such property before February 25, 1993, or

(B) the construction of such property was commenced by or for the taxpayer or a qualified person before February 25, 1993.

For purposes of this paragraph, the term “qualified person” means any person who transfers his rights

1 in such a contract or such property to the taxpayer  
 2 but only if the property is not placed in service by  
 3 such person before such rights are transferred to the  
 4 taxpayer.

5 **PART V—LUXURY TAX**

6 **SEC. 8161. REPEAL OF LUXURY EXCISE TAXES OTHER THAN**  
 7 **ON PASSENGER VEHICLES.**

8 (a) IN GENERAL.—Subchapter A of chapter 31 (re-  
 9 lating to retail excise taxes) is amended to read as follows:

10 **“Subchapter A—Luxury Passenger Automobiles**

“Sec. 4001. Imposition of tax.

“Sec. 4002. 1st retail sale; uses, etc. treated as sales; determina-  
 tion of price.

“Sec. 4003. Special rules.

11 **“SEC. 4001. IMPOSITION OF TAX.**

12 “(a) IMPOSITION OF TAX.—There is hereby imposed  
 13 on the 1st retail sale of any passenger vehicle a tax equal  
 14 to 10 percent of the price for which so sold to the extent  
 15 such price exceeds \$30,000.

16 “(b) PASSENGER VEHICLE.—

17 “(1) IN GENERAL.—For purposes of this sub-  
 18 chapter, the term ‘passenger vehicle’ means any 4-  
 19 wheeled vehicle—

20 “(A) which is manufactured primarily for  
 21 use on public streets, roads, and highways, and

22 “(B) which is rated at 6,000 pounds un-  
 23 loaded gross vehicle weight or less.

1           “(2) SPECIAL RULES.—

2                   “(A) TRUCKS AND VANS.—In the case of a  
3           truck or van, paragraph (1)(B) shall be applied  
4           by substituting ‘gross vehicle weight’ for ‘un-  
5           loaded gross vehicle weight’.

6                   “(B) LIMOUSINES.—In the case of a lim-  
7           ousine, paragraph (1) shall be applied without  
8           regard to subparagraph (B) thereof.

9           “(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax im-  
10          posed by this section shall not apply to the sale of any  
11          passenger vehicle for use by the purchaser exclusively in  
12          the active conduct of a trade or business of transporting  
13          persons or property for compensation or hire.

14          “(d) EXEMPTION FOR LAW ENFORCEMENT USES,  
15          ETC.—No tax shall be imposed by this section on the sale  
16          of any passenger vehicle—

17                   “(1) to the Federal Government, or a State or  
18           local government, for use exclusively in police, fire-  
19           fighting, search and rescue, or other law enforce-  
20           ment or public safety activities, or in public works  
21           activities, or

22                   “(2) to any person for use exclusively in provid-  
23           ing emergency medical services.

24          “(e) INFLATION ADJUSTMENT.—

1           “(1) IN GENERAL.—In the case of any calendar  
2 year after 1992, the \$30,000 amount in subsection  
3 (a) and section 4003(a) shall be increased by an  
4 amount equal to—

5                   “(A) \$30,000, multiplied by

6                   “(B) the cost-of-living adjustment under  
7 section 1(f)(3) for such calendar year, deter-  
8 mined by substituting ‘calendar year 1990’ for  
9 ‘calendar year 1992’ in subparagraph (B)  
10 thereof.

11           “(2) ROUNDING.—If any amount as adjusted  
12 under paragraph (1) is not a multiple of \$100, such  
13 amount shall be rounded to the nearest multiple of  
14 \$100.

15           “(f) TERMINATION.—The tax imposed by this section  
16 shall not apply to any sale or use after December 31,  
17 1999.

18 **“SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS**  
19 **SALES; DETERMINATION OF PRICE.**

20           “(a) 1ST RETAIL SALE.—For purposes of this sub-  
21 chapter, the term ‘1st retail sale’ means the 1st sale, for  
22 a purpose other than resale, after manufacture, produc-  
23 tion, or importation.

24           “(b) USE TREATED AS SALE.—

1           “(1) IN GENERAL.—If any person uses a pas-  
2           senger vehicle (including any use after importation)  
3           before the 1st retail sale of such vehicle, then such  
4           person shall be liable for tax under this subchapter  
5           in the same manner as if such vehicle were sold at  
6           retail by him.

7           “(2) EXEMPTION FOR FURTHER MANUFAC-  
8           TURE.—Paragraph (1) shall not apply to use of a  
9           vehicle as material in the manufacture or production  
10          of, or as a component part of, another vehicle tax-  
11          able under this subchapter to be manufactured or  
12          produced by him.

13          “(3) EXEMPTION FOR DEMONSTRATION USE.—  
14          Paragraph (1) shall not apply to any use of a pas-  
15          senger vehicle as a demonstrator.

16          “(4) EXCEPTION FOR USE AFTER IMPORTATION  
17          OF CERTAIN VEHICLES.—Paragraph (1) shall not  
18          apply to the use of a vehicle after importation if the  
19          user or importer establishes to the satisfaction of the  
20          Secretary that the 1st use of the vehicle occurred be-  
21          fore January 1, 1991, outside the United States.

22          “(5) COMPUTATION OF TAX.—In the case of  
23          any person made liable for tax by paragraph (1), the  
24          tax shall be computed on the price at which similar

1 vehicles are sold at retail in the ordinary course of  
2 trade, as determined by the Secretary.

3 “(c) LEASES CONSIDERED AS SALES.—For purposes  
4 of this subchapter—

5 “(1) IN GENERAL.—Except as otherwise pro-  
6 vided in this subsection, the lease of a vehicle (in-  
7 cluding any renewal or any extension of a lease or  
8 any subsequent lease of such vehicle) by any person  
9 shall be considered a sale of such vehicle at retail.

10 “(2) SPECIAL RULES FOR LONG-TERM  
11 LEASES.—

12 “(A) TAX NOT IMPOSED ON SALE FOR  
13 LEASING IN A QUALIFIED LEASE.—The sale of  
14 a passenger vehicle to a person engaged in a  
15 passenger vehicle leasing or rental trade or  
16 business for leasing by such person in a long-  
17 term lease shall not be treated as the 1st retail  
18 sale of such vehicle.

19 “(B) LONG-TERM LEASE.—For purposes  
20 of subparagraph (A), the term ‘long-term lease’  
21 means any long-term lease (as defined in sec-  
22 tion 4052).

23 “(C) SPECIAL RULES.—In the case of a  
24 long-term lease of a vehicle which is treated as  
25 the 1st retail sale of such vehicle—

1           “(i) DETERMINATION OF PRICE.—The  
2 tax under this subchapter shall be com-  
3 puted on the lowest price for which the ve-  
4 hicle is sold by retailers in the ordinary  
5 course of trade.

6           “(ii) PAYMENT OF TAX.—Rules simi-  
7 lar to the rules of section 4217(e)(2) shall  
8 apply.

9           “(iii) NO TAX WHERE EXEMPT USE  
10 BY LESSEE.—No tax shall be imposed on  
11 any lease payment under a long-term lease  
12 if the lessee’s use of the vehicle under such  
13 lease is an exempt use (as defined in sec-  
14 tion 4003(b)) of such vehicle.

15       “(d) DETERMINATION OF PRICE.—

16           “(1) IN GENERAL.—In determining price for  
17 purposes of this subchapter—

18           “(A) there shall be included any charge in-  
19 cident to placing the passenger vehicle in condi-  
20 tion ready for use,

21           “(B) there shall be excluded—

22           “(i) the amount of the tax imposed by  
23 this subchapter,

24           “(ii) if stated as a separate charge,  
25 the amount of any retail sales tax imposed

1 by any State or political subdivision there-  
2 of or the District of Columbia, whether the  
3 liability for such tax is imposed on the ven-  
4 dor or vendee, and

5 “(iii) the value of any component of  
6 such passenger vehicle if—

7 “(I) such component is furnished  
8 by the 1st user of such passenger ve-  
9 hicle, and

10 “(II) such component has been  
11 used before such furnishing, and

12 “(C) the price shall be determined without  
13 regard to any trade-in.

14 “(2) OTHER RULES.—Rules similar to the rules  
15 of paragraphs (2) and (4) of section 4052(b) shall  
16 apply for purposes of this subchapter.

17 **“SEC. 4003. SPECIAL RULES.**

18 “(a) SEPARATE PURCHASE OF VEHICLE AND PARTS  
19 AND ACCESSORIES THEREFOR.—Under regulations pre-  
20 scribed by the Secretary—

21 “(1) IN GENERAL.—Except as provided in para-  
22 graph (2), if—

23 “(A) the owner, lessee, or operator of any  
24 passenger vehicle installs (or causes to be in-

1           stalled) any part or accessory on such vehicle,  
2           and

3           “(B) such installation is not later than the  
4           date 6 months after the date the vehicle was  
5           1st placed in service,

6           then there is hereby imposed on such installation a  
7           tax equal to 10 percent of the price of such part or  
8           accessory and its installation.

9           “(2) LIMITATION.—The tax imposed by para-  
10          graph (1) on the installation of any part or acces-  
11          sory shall not exceed 10 percent of the excess (if  
12          any) of—

13           “(A) the sum of—

14           “(i) the price of such part or acces-  
15           sory and its installation,

16           “(ii) the aggregate price of the parts  
17           and accessories (and their installation) in-  
18           stalled before such part or accessory, plus

19           “(iii) the price for which the pas-  
20           senger vehicle was sold, over

21           “(B) \$30,000.

22          “(3) EXCEPTIONS.—Paragraph (1) shall not  
23          apply if—

24           “(A) the part or accessory installed is a re-  
25           placement part or accessory,

1           “(B) the part or accessory is installed to  
2           enable or assist an individual with a disability  
3           to operate the vehicle, or to enter or exit the ve-  
4           hicle, by compensating for the effect of such  
5           disability, or

6           “(C) the aggregate price of the parts and  
7           accessories (and their installation) described in  
8           paragraph (1) with respect to the vehicle does  
9           not exceed \$200 (or such other amount or  
10          amounts as the Secretary may by regulation  
11          prescribe).

12          The price of any part or accessory (and its installa-  
13          tion) to which paragraph (1) does not apply by rea-  
14          son of this paragraph shall not be taken into ac-  
15          count under paragraph (2)(A).

16          “(4) INSTALLERS SECONDARILY LIABLE FOR  
17          TAX.—The owners of the trade or business installing  
18          the parts or accessories shall be secondarily liable  
19          for the tax imposed by this subsection.

20          “(b) IMPOSITION OF TAX ON SALES, ETC., WITHIN  
21          2 YEARS OF VEHICLES PURCHASED TAX-FREE.—

22                 “(1) IN GENERAL.—If—

23                         “(A) no tax was imposed under this sub-  
24                         chapter on the 1st retail sale of any passenger  
25                         vehicle by reason of its exempt use, and

1           “(B) within 2 years after the date of such  
2           1st retail sale, such vehicle is resold by the pur-  
3           chaser or such purchaser makes a substantial  
4           nonexempt use of such vehicle,  
5           then such sale or use of such vehicle by such pur-  
6           chaser shall be treated as the 1st retail sale of such  
7           vehicle for a price equal to its fair market value at  
8           the time of such sale or use.

9           “(2) EXEMPT USE.—For purposes of this sub-  
10          section, the term ‘exempt use’ means any use of a  
11          vehicle if the 1st retail sale of such vehicle is not  
12          taxable under this subchapter by reason of such use.

13          “(c) PARTS AND ACCESSORIES SOLD WITH TAXABLE  
14          PASSENGER VEHICLE.—Parts and accessories sold on, in  
15          connection with, or with the sale of any passenger vehicle  
16          shall be treated as part of the vehicle.

17          “(d) PARTIAL PAYMENTS, ETC.—In the case of a  
18          contract, sale, or arrangement described in paragraph (2),  
19          (3), or (4) of section 4216(c), rules similar to the rules  
20          of section 4217(e)(2) shall apply for purposes of this sub-  
21          chapter.”

22          (b) TECHNICAL AMENDMENTS.—

23                 (1) Subsection (c) of section 4221 is amended  
24                 by striking “4002(b), 4003(c), 4004(a)” and insert-  
25                 ing “4001(d)”.

1           (2) Subsection (d) of section 4222 is amended  
2           by striking “4002(b), 4003(c), 4004(a)” and insert-  
3           ing “4001(d)”.

4           (3) The table of subchapters for chapter 31 is  
5           amended by striking the item relating to subchapter  
6           A and inserting the following:

                  “Subchapter A. Luxury passenger vehicles.”

7           (c) EFFECTIVE DATE.—The amendments made by  
8           this section shall take effect on January 1, 1993.

9   **SEC. 8162. EXEMPTION FROM LUXURY EXCISE TAX FOR**  
10                   **CERTAIN EQUIPMENT INSTALLED ON PAS-**  
11                   **SENGER VEHICLES FOR USE BY DISABLED IN-**  
12                   **DIVIDUALS.**

13           (a) IN GENERAL.—Paragraph (3) of section 4004(b)  
14           (relating to separate purchase of article and parts and ac-  
15           cessories therefor), as in effect on the day before the date  
16           of the enactment of this Act, is amended—

17           (1) by striking “or” at the end of subparagraph  
18           (A),

19           (2) by redesignating subparagraph (B) as sub-  
20           paragraph (C),

21           (3) by inserting after subparagraph (A) the fol-  
22           lowing new subparagraph:

23                   “(B) the part or accessory is installed on  
24                   a passenger vehicle to enable or assist an indi-  
25                   vidual with a disability to operate the vehicle, or

1 to enter or exit the vehicle, by compensating for  
2 the effect of such disability, or”, and

3 (4) by inserting after subparagraph (C) the fol-  
4 lowing flush sentence:

5 “The price of any part or accessory (and its installa-  
6 tion) to which paragraph (1) does not apply by rea-  
7 son of this paragraph shall not be taken into ac-  
8 count under paragraph (2)(A).”

9 (b) EFFECTIVE DATE.—The amendments made by  
10 this section shall take effect as if included in the amend-  
11 ments made by section 11221(a) of the Omnibus Budget  
12 Reconciliation Act of 1990.

13 (c) PERIOD FOR FILING CLAIMS.—If refund or credit  
14 of any overpayment of tax resulting from the application  
15 of the amendments made by this section is prevented at  
16 any time before the close of the 1-year period beginning  
17 on the date of the enactment of this Act by the operation  
18 of any law or rule of law (including res judicata), refund  
19 or credit of such overpayment (to the extent attributable  
20 to such amendments) may, nevertheless, be made or al-  
21 lowed if claim therefor is filed before the close of such  
22 1-year period.

23 **SEC. 8163. TAX ON DIESEL FUEL USED IN NONCOMMERCIAL**  
24 **BOATS.**

25 (a) GENERAL RULE.—

1           (1) Paragraph (2) of section 4092(a) (defining  
2 diesel fuel) is amended by striking “or a diesel-pow-  
3 ered train” and inserting “, a diesel-powered train,  
4 or a diesel-powered boat”.

5           (2) Paragraph (1) of section 4041(a) is amend-  
6 ed—

7           (A) by striking “diesel-powered highway  
8 vehicle” each place it appears and inserting  
9 “diesel-powered highway vehicle or diesel-pow-  
10 ered boat”, and

11           (B) by striking “such vehicle” and insert-  
12 ing “such vehicle or boat”.

13           (3) Subparagraph (B) of section 4092(b)(1) is  
14 amended by striking “commercial and noncommer-  
15 cial vessels” each place it appears and inserting  
16 “vessels for use in an off-highway business use (as  
17 defined in section 6421(e)(2)(B))”.

18           (b) EXEMPTION FOR USE IN FISHERIES OR COM-  
19 Mercial Navigation.—Subparagraph (B) of section  
20 6421(e)(2) is amended to read as follows:

21           “(B) USES IN BOATS.—

22           “(i) IN GENERAL.—Except as other-  
23 wise provided in this subparagraph, the  
24 term ‘off-highway business use’ does not  
25 include any use in a motorboat.

1           “(ii) FISHERIES AND WHALING.—The  
2 term ‘off-highway business use’ shall in-  
3 clude any use in a vessel employed in the  
4 fisheries or in the whaling business.

5           “(iii) EXCEPTION FOR DIESEL  
6 FUEL.—The term ‘off-highway business  
7 use’ shall include the use of diesel fuel in  
8 a boat in the active conduct of—

9           “(I) a trade or business of com-  
10 mercial fishing or transporting per-  
11 sons or property for compensation or  
12 hire, or

13           “(II) any other trade or business,  
14 except that this subclause shall not  
15 apply to noncommercial uses described  
16 in clause (iv) during a taxable period.

17           “(iv) TAXABLE PERIODS FOR NON-  
18 COMMERCIAL BOATS.—In the case of any  
19 use of diesel fuel in a boat used predomi-  
20 nantly in any activity which is of a type  
21 generally considered to constitute enter-  
22 tainment, amusement, or recreation, the  
23 taxable period for purposes of clause  
24 (iii)(II) shall be—

1           “(I) in the case so much of the  
2 tax under section 4091 as is attrib-  
3 utable to 4.3 cents of the diesel fuel  
4 deficit reduction rate imposed under  
5 such section, any period beginning  
6 after September 30, 1993, and

7           “(II) in the case so much of the  
8 tax under section 4091 as is not de-  
9 scribed in subclause (I) the period be-  
10 ginning after January 1, 1994, and  
11 ending on December 31, 1999.

12 (c) RETENTION OF TAXES IN GENERAL FUND.—

13           (1) TAXES IMPOSED AT HIGHWAY TRUST FUND  
14 FINANCING RATE.—Paragraph (4) of section  
15 9503(b) (relating to transfers to Highway Trust  
16 Fund) is amended—

17           (A) by striking “and” at the end of sub-  
18 paragraph (A),

19           (B) by striking the period at the end of  
20 subparagraph (B) and inserting “, and”, and

21           (C) by adding at the end thereof the fol-  
22 lowing new subparagraph:

23           “(C) there shall not be taken into account  
24 the taxes imposed by sections 4041 and 4091

1           on diesel fuel sold for use or used as fuel in a  
2           diesel-powered boat.”

3           (2) TAXES IMPOSED AT LEAKING UNDER-  
4           GROUND STORAGE TANK TRUST FUND FINANCING  
5           RATE.—Subsection (b) of section 9508 (relating to  
6           transfers to Leaking Underground Storage Tank  
7           Trust Fund) is amended by adding at the end there-  
8           of the following new sentence: “For purposes of this  
9           subsection, there shall not be taken into account the  
10          taxes imposed by sections 4041 and 4091 on diesel  
11          fuel sold for use or used as fuel in a diesel-powered  
12          boat.”

13          (d) EFFECTIVE DATE.—

14           (1) IN GENERAL.—Except as provided in para-  
15          graph (2), the amendments made by this section  
16          shall take effect on October 1, 1993.

17           (2) SPECIAL RULE.—No tax shall be imposed  
18          before January 1, 1994, under section 4091 of the  
19          Internal Revenue Code of 1986 by reason of the  
20          amendments made by this section, other than the  
21          portion of such tax as is attributable to 4.3 cents of  
22          the diesel fuel deficit reduction rate imposed by such  
23          section.

1                   **PART VI—OTHER CHANGES**  
2   **SEC. 8171. ALTERNATIVE MINIMUM TAX TREATMENT OF**  
3                   **CONTRIBUTIONS OF APPRECIATED PROP-**  
4                   **ERTY.**

5           (a) **REPEAL OF TAX PREFERENCE.**—Subsection (a)  
6 of section 57 is amended by striking paragraph (6) (relat-  
7 ing to appreciated property charitable deduction) and by  
8 redesignating paragraph (7) as paragraph (6).

9           (b) **EFFECT ON ADJUSTED CURRENT EARNINGS.**—  
10 Paragraph (4) of section 56(g) is amended by adding at  
11 the end thereof the following new subparagraph:

12                   “(J) **TREATMENT OF CHARITABLE CON-**  
13                   **TRIBUTIONS.**—Notwithstanding subparagraphs  
14                   (B) and (C), no adjustment related to the earn-  
15                   ings and profits effects of any charitable con-  
16                   tribution shall be made in computing adjusted  
17                   current earnings.”

18           (c) **CONFORMING AMENDMENT.**—Subclause (II) of  
19 section 53(d)(1)(B)(ii) is amended by striking “(5) and  
20 (6)” and inserting “(5)”.

21           (d) **EFFECTIVE DATE.**—The amendments made by  
22 this section shall apply to contributions made after June  
23 30, 1992, except that in the case of any contribution of  
24 capital gain property which is not tangible personal prop-  
25 erty, such amendments shall apply only if the contribution  
26 is made after December 31, 1992.

1 **SEC. 8172. SUBSTANTIATION REQUIREMENT FOR DEDUC-**  
2 **TION OF CERTAIN CHARITABLE CONTRIBU-**  
3 **TIONS.**

4 (a) SUBSTANTIATION REQUIREMENT.—Section  
5 170(f) (providing special rules relating to the deduction  
6 of charitable contributions and gifts) is amended by add-  
7 ing at the end the following new paragraph:

8 “(8) SUBSTANTIATION REQUIREMENT FOR CER-  
9 TAIN CONTRIBUTIONS.—

10 “(A) GENERAL RULE.—No deduction shall  
11 be allowed under subsection (a) for any con-  
12 tribution of \$250 or more unless the taxpayer  
13 substantiates the contribution by a contempora-  
14 neous written acknowledgment of the contribu-  
15 tion by the donee organization that meets the  
16 requirements of subparagraph (B).

17 “(B) CONTENT OF ACKNOWLEDGMENT.—

18 “(i) IN GENERAL.—An acknowledg-  
19 ment meets the requirements of this sub-  
20 paragraph if it provides information suffi-  
21 cient to substantiate the amount of the de-  
22 ductible contribution. Nothing in this  
23 clause shall be construed as requiring the  
24 donee organization to estimate the value of  
25 a noncash contribution.

1           “(ii) QUID PRO QUO CONTRIBU-  
2           TIONS.—If the contribution was made by  
3           means of a payment part of which con-  
4           stituted consideration for goods or services  
5           provided by the donee organization, the ac-  
6           knowledgment must provide a good faith  
7           estimate of the value of such goods or serv-  
8           ices. The preceding sentence shall not  
9           apply to any payment made to an organi-  
10          zation, organized exclusively for religious  
11          purposes, in return for which the taxpayer  
12          receives solely an intangible religious bene-  
13          fit that generally is not sold in a commer-  
14          cial transaction outside the donative con-  
15          text.

16          “(C) CONTEMPORANEOUS.—For purposes  
17          of subparagraph (A), an acknowledgment shall  
18          be considered to be contemporaneous if the tax-  
19          payer obtains the acknowledgment on or before  
20          the earlier of—

21                  “(i) the date on which the taxpayer  
22                  files a return for the taxable year in which  
23                  the contribution was made, or

24                  “(ii) the due date (including exten-  
25                  sions) for filing such return.

1           “(D) SUBSTANTIATION NOT REQUIRED  
2           FOR CONTRIBUTIONS REPORTED BY THE  
3           DONEE ORGANIZATION.—Subparagraph (A)  
4           shall not apply to a contribution if the donee  
5           organization files a return, on such form and in  
6           accordance with such regulations as the Sec-  
7           retary may prescribe, which includes the infor-  
8           mation described in subparagraph (B) with re-  
9           spect to the contribution.

10           “(E) REGULATIONS.—The Secretary shall  
11           prescribe such regulations as may be necessary  
12           or appropriate to carry out the purposes of this  
13           paragraph, including regulations that may pro-  
14           vide that some or all of the requirements of this  
15           paragraph do not apply in appropriate cases.”

16           (b) EFFECTIVE DATE.—The provisions of this sec-  
17           tion shall apply to contributions made on or after January  
18           1, 1994.

19           **SEC. 8173. DISCLOSURE RELATED TO QUID PRO QUO**  
20           **CONTRIBUTIONS.**

21           (a) DISCLOSURE REQUIREMENT.—Subchapter B of  
22           chapter 61 (relating to information and returns) is amend-  
23           ed by redesignating section 6115 as section 6116 and by  
24           inserting after section 6114 the following new section:

1 **“SEC. 6115. DISCLOSURE RELATED TO QUID PRO QUO CON-**  
2 **TRIBUTIONS.**

3 “(a) DISCLOSURE REQUIREMENT.—If an organiza-  
4 tion described in section 170(c) (other than paragraph (1)  
5 thereof) receives a quid pro quo contribution in excess of  
6 \$75, the organization shall, in connection with the solicita-  
7 tion or receipt of the contribution, provide a written state-  
8 ment which—

9 “(1) informs the donor that the amount of the  
10 contribution that is deductible for Federal income  
11 tax purposes is limited to the excess of the amount  
12 of any money and the value of any property other  
13 than money contributed by the donor over the value  
14 of the goods or services provided by the organiza-  
15 tion, and

16 “(2) provides the donor with a good faith esti-  
17 mate of the value of such goods or services.

18 “(b) QUID PRO QUO CONTRIBUTION.—For purposes  
19 of this section, the term ‘quid pro quo contribution’ means  
20 a payment made partly as a contribution and partly in  
21 consideration for goods or services provided to the payor  
22 by the donee organization. A quid pro quo contribution  
23 does not include any payment made to an organization,  
24 organized exclusively for religious purposes, in return for  
25 which the taxpayer receives solely an intangible religious

1 benefit that generally is not sold in a commercial trans-  
2 action outside the donative context.”

3 (b) PENALTY FOR FAILURE TO DISCLOSE.—Part I  
4 of subchapter B of chapter 68 (relating to assessable pen-  
5 alties) is amended by inserting after section 6713 the fol-  
6 lowing new section:

7 **“SEC. 6714. FAILURE TO MEET DISCLOSURE REQUIRE-**  
8 **MENTS APPLICABLE TO QUID PRO QUO CON-**  
9 **TRIBUTIONS.**

10 “(a) IMPOSITION OF PENALTY.—If an organization  
11 fails to meet the disclosure requirement of section 6115  
12 with respect to a quid pro quo contribution, such organiza-  
13 tion shall pay a penalty of \$10 for each contribution in  
14 respect of which the organization fails to make the re-  
15 quired disclosure, except that the total penalty imposed  
16 by this subsection with respect to a particular fundraising  
17 event or mailing shall not exceed \$5,000.

18 “(b) REASONABLE CAUSE EXCEPTION.—No penalty  
19 shall be imposed under this section with respect to any  
20 failure if it is shown that such failure is due to reasonable  
21 cause.”

22 (c) CLERICAL AMENDMENTS.—

23 (1) The table for subchapter B of chapter 61  
24 is amended by striking the item relating to section  
25 6115 and inserting the following new items:

“Sec. 6115. Disclosure related to quid pro quo contributions.  
 “Sec. 6116. Cross reference.”

1           (2) The table for part I of subchapter B of  
 2 chapter 68 is amended by inserting after the item  
 3 for section 6713 the following new item:

“Sec. 6714. Failure to meet disclosure requirements applicable to  
 quid pro quo contributions.”

4           (d) EFFECTIVE DATE.—The provisions of this sec-  
 5 tion shall apply to quid pro quo contributions made on  
 6 or after January 1, 1994.

7 **SEC. 8174. CERTAIN TRANSFERS TO RAILROAD RETIRE-**  
 8 **MENT ACCOUNT MADE PERMANENT.**

9           Subsection (c)(1)(A) of section 224 of the Railroad  
 10 Retirement Solvency Act of 1983 (relating to section 72(r)  
 11 revenue increase transferred to certain railroad accounts)  
 12 is amended by striking “with respect to benefits received  
 13 before October 1, 1992”.

14 **SEC. 8175. TEMPORARY EXTENSION OF DEDUCTION FOR**  
 15 **HEALTH INSURANCE COSTS OF SELF-EM-**  
 16 **PLOYED INDIVIDUALS.**

17           (a) IN GENERAL.—

18           (1) EXTENSION.—Paragraph (6) of section  
 19 162(l) (relating to special rules for health insurance  
 20 costs of self-employed individuals) is amended by  
 21 striking “June 30, 1992” and inserting “December  
 22 31, 1993”.

1           (2) CONFORMING AMENDMENT.—Paragraph (2)  
2 of section 110(a) of the Tax Extension Act of 1991  
3 is hereby repealed.

4           (3) EFFECTIVE DATE.—The amendments made  
5 by this subsection shall apply to taxable years end-  
6 ing after June 30, 1992.

7           (b) DETERMINATION OF ELIGIBILITY FOR EM-  
8 PLOYER-SPONSORED HEALTH PLAN.—

9           (1) IN GENERAL.—Paragraph (2)(B) of section  
10 162(l) is amended to read as follows:

11           “(B) OTHER COVERAGE.—Paragraph (1)  
12 shall not apply to any taxpayer for any calendar  
13 month for which the taxpayer is eligible to par-  
14 ticipate in any subsidized health plan main-  
15 tained by any employer of the taxpayer or of  
16 the spouse of the taxpayer.”

17           (2) EFFECTIVE DATE.—The amendment made  
18 by paragraph (1) shall apply to taxable years begin-  
19 ning after December 31, 1992.

# 1           **Subtitle B—Revenue Increases**

## 2           **PART I—PROVISIONS AFFECTING INDIVIDUALS**

### 3                           **Subpart A—Rate Increases**

#### 4           **SEC. 8201. INCREASE IN TOP MARGINAL RATE UNDER SEC-** 5                           **TION 1.**

6           (a) GENERAL RULE.—Section 1 (relating to tax im-  
7 posed) is amended by striking subsections (a) through (e)  
8 and inserting the following:

9           “(a) MARRIED INDIVIDUALS FILING JOINT RETURNS  
10 AND SURVIVING SPOUSES.—There is hereby imposed on  
11 the taxable income of—

12                       “(1) every married individual (as defined in sec-  
13 tion 7703) who makes a single return jointly with  
14 his spouse under section 6013, and

15                       “(2) every surviving spouse (as defined in sec-  
16 tion 2(a)),

17 a tax determined in accordance with the following table:

<b>“If taxable income is:</b>	<b>The tax is:</b>
Not over \$36,900 .....	15% of taxable income.
Over \$36,900 but not over \$89,150.	\$5,535, plus 28% of the excess over \$36,900.
Over \$89,150 but not over \$140,000.	\$20,165, plus 31% of the excess over \$89,150.
Over \$140,000 .....	\$35,928.50, plus 36% of the excess over \$140,000.

18           “(b) HEADS OF HOUSEHOLDS.—There is hereby im-  
19 posed on the taxable income of every head of a household  
20 (as defined in section 2(b)) a tax determined in accordance  
21 with the following table:

<b>“If taxable income is:</b>	<b>The tax is:</b>
Not over \$29,600 .....	15% of taxable income.
Over \$29,600 but not over \$76,400.	\$4,440, plus 28% of the excess over \$29,600.
Over \$76,400 but not over \$127,500.	\$17,544, plus 31% of the excess over \$76,400.
Over \$127,500 .....	\$33,385, plus 36% of the excess over \$127,500.

1       “(c) UNMARRIED INDIVIDUALS (OTHER THAN SUR-  
2 VIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There  
3 is hereby imposed on the taxable income of every individ-  
4 ual (other than a surviving spouse as defined in section  
5 2(a) or the head of a household as defined in section 2(b))  
6 who is not a married individual (as defined in section  
7 7703) a tax determined in accordance with the following  
8 table:

<b>“If taxable income is:</b>	<b>The tax is:</b>
Not over \$22,100 .....	15% of taxable income.
Over \$22,100 but not over \$53,500.	\$3,315, plus 28% of the excess over \$22,100.
Over \$53,500 but not over \$115,000.	\$12,107, plus 31% of the excess over \$53,500.
Over \$115,000 .....	\$31,172, plus 36% of the excess over \$115,000.

9       “(d) MARRIED INDIVIDUALS FILING SEPARATE RE-  
10 TURNS.—There is hereby imposed on the taxable income  
11 of every married individual (as defined in section 7703)  
12 who does not make a single return jointly with his spouse  
13 under section 6013, a tax determined in accordance with  
14 the following table:

<b>“If taxable income is:</b>	<b>The tax is:</b>
Not over \$18,450 .....	15% of taxable income.
Over \$18,450 but not over \$44,575.	\$2,767.50, plus 28% of the excess over \$18,450.

<b>“If taxable income is:</b>	<b>The tax is:</b>
Over \$44,575 but not over \$70,000.	\$10,082.50, plus 31% of the excess over \$44,575.
Over \$70,000 .....	\$17,964.25, plus 36% of the excess over \$70,000.

1       “(e) ESTATES AND TRUSTS.—There is hereby im-  
2 posed on the taxable income of—

3               “(1) every estate, and

4               “(2) every trust,

5 taxable under this subsection a tax determined in accord-  
6 ance with the following table:

<b>“If taxable income is:</b>	<b>The tax is:</b>
Not over \$1,500 .....	15% of taxable income.
Over \$1,500 but not over \$3,500 ..	\$225, plus 28% of the excess over \$1,500.
Over \$3,500 but not over \$5,500 ..	\$785, plus 31% of the excess over \$3,500.
Over \$5,500 .....	\$1,405, plus 36% of the excess over \$5,500.”

7       (b) CONFORMING AMENDMENTS.—

8               (1) Section 531 is amended by striking “28  
9 percent” and inserting “36 percent”.

10              (2) Section 541 is amended by striking “28  
11 percent” and inserting “36 percent”.

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

13                      (i) by striking “1990” in paragraph (1)  
14 and inserting “1993”, and

15                      (ii) by striking “1989” in paragraph  
16 (3)(B) and inserting “1992”.

17              (B) Subsection (f) of section 1 is amended by  
18 adding at the end thereof the following new para-  
19 graph:

1 “(7) SPECIAL RULE FOR CERTAIN BRACKETS.—

2 “(A) CALENDAR YEAR 1994.—In prescrib-  
3 ing the tables under paragraph (1) which apply  
4 with respect to taxable years beginning in cal-  
5 endar year 1994, the Secretary shall make no  
6 adjustment to the dollar amounts at which the  
7 36 percent rate bracket begins or at which the  
8 39.6 percent rate begins under any table con-  
9 tained in subsection (a), (b), (c), (d), or (e).

10 “(B) LATER CALENDAR YEARS.—In pre-  
11 scribing tables under paragraph (1) which apply  
12 with respect to taxable years beginning in a cal-  
13 endar year after 1994, the cost-of-living adjust-  
14 ment used in making adjustments to the dollar  
15 amounts referred to in subparagraph (A) shall  
16 be determined under paragraph (3) by sub-  
17 stituting ‘1993’ for ‘1992’.”

18 (C) Subparagraph (C) of section 41(e)(5) is  
19 amended by striking “1989” each place it appears  
20 and inserting “1992”.

21 (D) Subparagraph (B) of section 63(c)(4) is  
22 amended by striking “1989” and inserting “1992”.

23 (E) Subparagraph (B) of section 68(b)(2) is  
24 amended by striking “1989” and inserting “1992”.

1 (F) Subparagraph (B) of section 132(f)(6) is  
 2 amended by striking “, determined by substituting”  
 3 and all that follows down through the period at the  
 4 end thereof and inserting a period.

5 (G) Subparagraphs (A)(ii) and (B)(ii) of sec-  
 6 tion 151(d)(4) are each amended by striking “1989”  
 7 and inserting “1992”.

8 (H) Clause (ii) of section 513(h)(2)(C) is  
 9 amended by striking “1989” and inserting “1992”.

10 (c) EFFECTIVE DATE.—The amendments made by  
 11 this section shall apply to taxable years beginning after  
 12 December 31, 1992.

13 **SEC. 8202. SURTAX ON HIGH-INCOME TAXPAYERS.**

14 (a) GENERAL RULE.—

15 (1) Subsection (a) of section 1 (as amended by  
 16 section 8201) is amended by striking the last item  
 17 in the table contained therein and inserting the fol-  
 18 lowing:

“Over \$140,000 but not over \$250,000.	\$35,928.50, plus 36% of the excess over \$140,000.
Over \$250,000 .....	\$75,528.50, plus 39.6% of the excess over \$250,000.”

19 (2) Subsection (b) of section 1 (as so amended)  
 20 is amended by striking the last item in the table  
 21 contained therein and inserting the following:

“Over \$127,500 but not over \$250,000.	\$33,385, plus 36% of the excess over \$127,500.
Over \$250,000 .....	\$77,485, plus 39.6% of the excess over \$250,000.”

1           (3) Subsection (c) of section 1 (as so amended)  
 2           is amended by striking the last item in the table  
 3           contained therein and inserting the following:

“Over \$115,000 but not over \$250,000.	\$31,172, plus 36% of the excess over \$115,000.
Over \$250,000 .....	\$79,772, plus 39.6% of the excess over \$250,000.”

4           (4) Subsection (d) of section 1 (as so amended)  
 5           is amended by striking the last item in the table  
 6           contained therein and inserting the following:

“Over \$70,000 but not over \$125,000.	\$17,964.25, plus 36% of the excess over \$70,000.
Over \$125,000 .....	\$37,764.25, plus 39.6% of the excess over \$125,000.”

7           (5) Subsection (e) of section 1 (as so amended)  
 8           is amended by striking the last item in the table  
 9           contained therein and inserting the following:

“Over \$5,500 but not over \$7,500	\$1,405, plus 36% of the excess over \$5,500.
Over \$7,500 .....	\$2,125, plus 39.6% of the excess over \$7,500.”

10          (b) SURTAX ON NET CAPITAL GAINS.—Section 1(h)  
 11 (relating to maximum capital gains rate) is amended by  
 12 striking the period at the end of paragraph (2) and insert-  
 13 ing “, plus”, and by adding at the end the following new  
 14 paragraph:

15           “(3) a tax of 2.8 percent of the lesser of—  
 16           “(A) the net capital gain, or  
 17           “(B) the amount of taxable income in ex-  
 18           cess of the dollar amount at which the last rate  
 19           bracket begins for such taxable year in the

1 table contained in subsection (a), (b), (c), (d),  
2 or (e), whichever is applicable.”

3 (c) TECHNICAL AMENDMENT.—Sections 531 and  
4 541 (as amended by section 8201) are each amended by  
5 striking “36 percent” and inserting “39.6 percent”.

6 (d) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to taxable years beginning after  
8 December 31, 1992.

9 **SEC. 8203. MODIFICATIONS TO ALTERNATIVE MINIMUM**  
10 **TAX RATES AND EXEMPTION AMOUNTS.**

11 (a) INCREASE IN RATE.—Paragraph (1) of section  
12 55(b) (defining tentative minimum tax) is amended to  
13 read as follows:

14 “(1) AMOUNT OF TENTATIVE TAX.—

15 “(A) NONCORPORATE TAXPAYERS.—

16 “(i) IN GENERAL.—In the case of a  
17 taxpayer other than a corporation, the ten-  
18 tative minimum tax for the taxable year is  
19 the sum of—

20 “(I) 26 percent of so much of the  
21 taxable excess as does not exceed  
22 \$175,000, plus

23 “(II) 28 percent of so much of  
24 the taxable excess as exceeds  
25 \$175,000.

1           The amount determined under the preced-  
2           ing sentence shall be reduced by the alter-  
3           native minimum tax foreign tax credit for  
4           the taxable year.

5           “(ii) TAXABLE EXCESS.—For pur-  
6           poses of clause (i), the term ‘taxable ex-  
7           cess’ means so much of the alternative  
8           minimum taxable income for the taxable  
9           year as exceeds the exemption amount.

10          “(iii) MARRIED INDIVIDUAL FILING  
11          SEPARATE RETURN.—In the case of a mar-  
12          ried individual filing a separate return,  
13          clause (i) shall be applied by substituting  
14          ‘\$87,500’ for ‘\$175,000’ each place it ap-  
15          pears. For purposes of the preceding sen-  
16          tence, marital status shall be determined  
17          under section 7703.

18          “(B) CORPORATIONS.—In the case of a  
19          corporation, the tentative minimum tax for the  
20          taxable year is—

21                 “(i) 20 percent of so much of the al-  
22                 ternative minimum taxable income for the  
23                 taxable year as exceeds the exemption  
24                 amount, reduced by

1                   “(ii) the alternative minimum tax for-  
2                   eign tax credit for the taxable year.”

3           (b) INCREASE IN EXEMPTION AMOUNTS.—Para-  
4 graph (1) of section 55(d) (defining exemption amount)  
5 is amended—

6           (1) by striking “\$40,000” in subparagraph (A)  
7           and inserting “\$45,000”,

8           (2) by striking “\$30,000” in subparagraph (B)  
9           and inserting “\$33,750”, and

10          (3) by striking “\$20,000” in subparagraph (C)  
11          and inserting “\$22,500”.

12          (c) CONFORMING AMENDMENTS.—

13          (1) The last sentence of section 55(d)(3) is  
14          amended by striking “\$155,000 or (ii) \$20,000” and  
15          inserting “\$165,000 or (ii) \$22,500”.

16          (2)(A) Subparagraph (A) of section 897(a)(2)  
17          is amended by striking “the amount determined  
18          under section 55(b)(1)(A) shall not be less than 21  
19          percent of” and inserting “the taxable excess for  
20          purposes of section 55(b)(1)(A) shall not be less  
21          than”.

22          (B) The heading for paragraph (2) of section  
23          897(a) is amended by striking “21-PERCENT”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 1992.

4 **SEC. 8203A. RATE INCREASES NOT TO TAKE EFFECT UNTIL**  
5 **JULY 1, 1993.**

6 (a) IN GENERAL.—Section 1 (relating to tax im-  
7 posed) is amended by adding at the end the following new  
8 subsection:

9 “(i) SPECIAL RULES FOR TAXABLE YEARS BEGIN-  
10 NING IN 1993.—

11 “(1) IN GENERAL.—In the case of taxable years  
12 beginning in calendar year 1993, each of the tables  
13 contained in subsections (a), (b), (c), (d), and (e)  
14 shall be applied—

15 “(A) by substituting ‘33.5 percent’ for ‘36  
16 percent’,

17 “(B) by substituting ‘35.3 percent’ for  
18 ‘39.6 percent’, and

19 “(C) by substituting for the dollar amount  
20 of tax in the last rate bracket the dollar amount  
21 determined under the table contained in para-  
22 graph (2).

23 “(2) DOLLAR AMOUNT OF TAX.—The dollar  
24 amount substituted under paragraph (1) shall be de-  
25 termined as follows:

**“In the case of:****The dollar amount is:**

Subsection (a) .....	\$72,778.50 for \$75,528.50.
Subsection (b) .....	\$74,422.50 for \$77,485.00.
Subsection (c) .....	\$76,397.00 for \$79,772.00.
Subsection (d) .....	\$36,389.25 for \$37,764.25.
Subsection (e) .....	\$2,075.00 for \$2,125.00.”

## 1 (b) CONFORMING AMENDMENTS.—

2 (1) Sections 531 and 541 (as amended by sec-  
3 tion 8202) are each amended by inserting “(35.3  
4 percent in the case of taxable years beginning in cal-  
5 endar year 1993)” after “39.6 percent”.

6 (2) Section 1(h)(3), as added by section  
7 8202(b), is amended by inserting “(1.4 percent in  
8 the case of taxable years beginning in calendar year  
9 1993)” after “2.8 percent”.

10 (3) Paragraph (1) of section 55(b), as amended  
11 by section 8203, is amended by adding at the end  
12 the following new subparagraph:

13 “(C) SPECIAL RULES FOR 1993.—In the  
14 case of any taxable year beginning in the cal-  
15 endar year 1993, subparagraph (A)(i) shall be  
16 applied by substituting—

17 “(i) ‘25 percent’ for ‘26 percent’ in  
18 subclause (I), and

19 “(ii) ‘26 percent’ for ‘28 percent’ in  
20 subclause (II).”

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 1992.

4 **SEC. 8204. OVERALL LIMITATION ON ITEMIZED DEDUC-**  
5 **TIONS FOR HIGH-INCOME TAXPAYERS MADE**  
6 **PERMANENT.**

7 Subsection (f) of section 68 (relating to overall limita-  
8 tion on itemized deductions) is hereby repealed.

9 **SEC. 8205. PHASEOUT OF PERSONAL EXEMPTION OF HIGH-**  
10 **INCOME TAXPAYERS MADE PERMANENT.**

11 Section 151(d)(3) (relating to phaseout of personal  
12 exemption) is amended by striking subparagraph (E).

13 **SEC. 8206. PROVISIONS TO PREVENT CONVERSION OF OR-**  
14 **DINARY INCOME TO CAPITAL GAIN.**

15 (a) INTEREST EMBEDDED IN FINANCIAL TRANS-  
16 ACTIONS.—

17 (1) IN GENERAL.—Part IV of subchapter P of  
18 chapter 1 (relating to special rules for determining  
19 capital gains and losses) is amended by adding at  
20 the end the following new section:

21 **“SEC. 1258. RECHARACTERIZATION OF GAIN FROM CER-**  
22 **TAIN FINANCIAL TRANSACTIONS.**

23 **“(a) GENERAL RULE.—In the case of any gain—**

1           “(1) which (but for this section) would be treat-  
2           ed as gain from the sale or exchange of a capital  
3           asset, and

4           “(2) which is recognized on the disposition or  
5           other termination of any position which was held as  
6           part of a conversion transaction,

7           such gain (to the extent such gain does not exceed the  
8           applicable imputed income amount) shall be treated as  
9           ordinary income.

10          “(b) APPLICABLE IMPUTED INCOME AMOUNT.—For  
11          purposes of subsection (a), the term ‘applicable imputed  
12          income amount’ means, with respect to any disposition or  
13          other termination referred to in subsection (a), an amount  
14          equal to—

15               “(1) the amount of interest which would have  
16               accrued on the taxpayer’s net investment in the con-  
17               version transaction for the period ending on the date  
18               of such disposition or other termination (or, if ear-  
19               lier, the date on which the requirements of sub-  
20               section (c) ceased to be satisfied) at a rate equal to  
21               120 percent of the applicable rate, reduced by

22               “(2) the amount treated as ordinary income  
23               under subsection (a) with respect to any prior dis-  
24               position or other termination of a position which was  
25               held as a part of such transaction.

1 The Secretary shall by regulations provide for such reduc-  
2 tions in the applicable imputed income amount as may be  
3 appropriate by reason of amounts capitalized under sec-  
4 tion 263(g), ordinary income received, or otherwise.

5 “(c) CONVERSION TRANSACTION.—For purposes of  
6 this section, the term ‘conversion transaction’ means any  
7 transaction—

8 “(1) substantially all of the taxpayer’s expected  
9 return from which is attributable to the time value  
10 of the taxpayer’s net investment in such transaction,  
11 and

12 “(2) which is—

13 “(A) the holding of any property (whether  
14 or not actively traded), and the entering into a  
15 contract to sell such property (or substantially  
16 identical property) at a price determined in ac-  
17 cordance with such contract, but only if such  
18 property was acquired and such contract was  
19 entered into on a substantially contempora-  
20 neous basis,

21 “(B) an applicable straddle,

22 “(C) any other transaction which is mar-  
23 keted or sold as producing capital gains and as  
24 a transaction described in paragraph (1), or

1           “(D) any other transaction specified in  
2           regulations prescribed by the Secretary.

3           “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
4 poses of this section—

5           “(1) APPLICABLE STRADDLE.—The term ‘appli-  
6           cable straddle’ means any straddle (within the mean-  
7           ing of section 1092(c)); except that the term ‘per-  
8           sonal property’ shall include stock.

9           “(2) APPLICABLE RATE.—The term ‘applicable  
10 rate’ means—

11           “(A) the applicable Federal rate deter-  
12           mined under section 1274(d) (compounded  
13           semiannually) as if the conversion transaction  
14           were a debt instrument, or

15           “(B) if the term of the conversion trans-  
16           action is indefinite, the Federal short-term  
17           rates in effect under section 6621(b) during the  
18           period of the conversion transaction  
19           (compounded daily).

20           “(3) TREATMENT OF BUILT-IN LOSSES.—

21           “(A) IN GENERAL.—If any position with a  
22           built-in loss becomes part of a conversion trans-  
23           action—

24           “(i) for purposes of applying this sub-  
25           title to such position for periods after such

1 position becomes part of such transaction,  
2 such position shall be taken into account  
3 at its fair market value as of the time it  
4 became part of such transaction, except  
5 that

6 “(ii) upon the disposition or other ter-  
7 mination of such position in a transaction  
8 in which gain or loss is recognized, such  
9 built-in loss shall be recognized and shall  
10 have a character determined without re-  
11 gard to this section.

12 “(B) BUILT-IN LOSS.—For purposes of  
13 subparagraph (A), the term ‘built-in loss’  
14 means the loss (if any) which would have been  
15 realized if the position had been disposed of or  
16 otherwise terminated at its fair market value as  
17 of the time such position became part of such  
18 transaction.

19 “(4) POSITION TAKEN INTO ACCOUNT AT FAIR  
20 MARKET VALUE.—In determining the taxpayer’s net  
21 investment in any conversion transaction, there shall  
22 be included the fair market value of any position  
23 which becomes part of such transaction (determined  
24 as of the time such position became part of such  
25 transaction).

1           “(5) SPECIAL RULE FOR OPTIONS DEALERS  
2           AND COMMODITIES TRADERS.—

3           “(A) IN GENERAL.—Subsection (a) shall  
4           not apply to transactions —

5           “(i) of an options dealer in the normal  
6           course of the dealer’s trade or business of  
7           dealing with options, or

8           “(ii) of a commodities trader in the  
9           normal course of the trader’s trade or  
10          business of trading section 1256 contracts.

11          “(B) DEFINITIONS.—For purposes of this  
12          paragraph—

13          “(i) OPTIONS DEALER.—The term  
14          ‘options dealer’ has the meaning given  
15          such term by section 1256(g)(8).

16          “(ii) COMMODITIES TRADER.— The  
17          term ‘commodities trader’ means any per-  
18          son who is a member (or, to the extent  
19          provided in regulations, is entitled to trade  
20          as a member) of a domestic board of trade  
21          which is designated as a contract market  
22          by the Commodity Futures Trading Com-  
23          mission.

24          “(C) LIMITED PARTNERS AND LIMITED  
25          ENTREPRENEURS.—In the case of any gain

1 from a transaction recognized by an entity  
2 which is allocable to a limited partner or limited  
3 entrepreneur (within the meaning of section  
4 464(e)(2)), subparagraph (A) shall not apply  
5 if—

6 “(i) substantially all of the limited  
7 partner’s (or limited entrepreneur’s) ex-  
8 pected return from the entity is attrib-  
9 utable to the time value of the partner’s  
10 (or entrepreneur’s) net investment in such  
11 entity,

12 “(ii) the transaction (or the interest  
13 in the entity) was marketed or sold as pro-  
14 ducing capital gains treatment and as a  
15 transaction described in subsection (c)(1),  
16 or

17 “(iii) the transaction (or the interest  
18 in the entity) is a transaction (or interest)  
19 specified in regulations prescribed by the  
20 Secretary.”

21 (2) CLERICAL AMENDMENT.—The table of sec-  
22 tions for part IV of subchapter P of chapter 1 is  
23 amended by adding at the end thereof the following  
24 new item:

“Sec. 1258. Recharacterization of gain from certain financial  
transactions.”

1           (3) EFFECTIVE DATE.—The amendments made  
2           by this section shall apply to conversion transactions  
3           entered into after April 30, 1993.

4           (b) REPEAL OF CERTAIN EXCEPTIONS TO MARKET  
5 DISCOUNT RULES.—

6           (1) MARKET DISCOUNT BONDS ISSUED ON OR  
7           BEFORE JULY 18, 1984.—The following provisions  
8           are hereby repealed:

9                   (A) Section 1276(e).

10                   (B) Section 1277(d).

11           (2) TAX-EXEMPT OBLIGATIONS.—

12                   (A) IN GENERAL.—Paragraph (1) of sec-  
13                   tion 1278(a) (defining market discount bond) is  
14                   amended—

15                           (i) by striking clause (ii) of subpara-  
16                           graph (B) and redesignating subclauses  
17                           (iii) and (iv) of such subparagraph as  
18                           clauses (ii) and (iii), respectively,

19                           (ii) by redesignating subparagraph  
20                           (C) as subparagraph (D), and

21                           (iii) by inserting after subparagraph  
22                           (B) the following new subparagraph:

23                           “(C) SECTION 1277 NOT APPLICABLE TO  
24                           TAX-EXEMPT OBLIGATIONS.—For purposes of  
25                           section 1277, the term ‘market discount bond’

1 shall not include any tax-exempt obligation (as  
2 defined in section 1275(a)(3)).”

3 (B) CONFORMING AMENDMENT.—Sections  
4 1276(a)(4) and 1278(b)(1) are each amended  
5 by striking “sections 871(a)” and inserting  
6 “sections 103, 871(a),”.

7 (3) EFFECTIVE DATE.—The amendments made  
8 by this section shall apply to obligations purchased  
9 (within the meaning of section 1272(d)(1) of the In-  
10 ternal Revenue Code of 1986) after April 30, 1993.

11 (c) TREATMENT OF STRIPPED PREFERRED  
12 STOCK.—

13 (1) IN GENERAL.—Section 305 is amended by  
14 redesignating subsection (e) as subsection (f) and by  
15 inserting after subsection (d) the following new sub-  
16 section:

17 “(e) TREATMENT OF PURCHASER OF STRIPPED PRE-  
18 FERRED STOCK.—

19 “(1) IN GENERAL.—If any person purchases  
20 after April 30, 1993, any stripped preferred stock,  
21 then such person, while holding such stock, shall in-  
22 clude in gross income amounts equal to the amounts  
23 which would have been so includible if such stripped  
24 preferred stock were a bond issued on the purchase

1 date and having original issue discount equal to the  
2 excess, if any, of—

3 “(A) the redemption price for such stock,  
4 over

5 “(B) the price at which such person pur-  
6 chased such stock.

7 The preceding sentence shall also apply in the case  
8 of any person whose basis in such stock is deter-  
9 mined by reference to the basis in the hands of such  
10 purchaser.

11 “(2) BASIS ADJUSTMENTS.—Appropriate ad-  
12 justments to basis shall be made for amounts includ-  
13 ible in gross income under paragraph (1).

14 “(3) TAX TREATMENT OF PERSON STRIPPING  
15 STOCK.—If any person strips the rights to 1 or more  
16 dividends from any stock described in paragraph  
17 (5)(B) and after April 30, 1993, disposes of such  
18 dividend rights, for purposes of paragraph (1), such  
19 person shall be treated as having purchased the  
20 stripped preferred stock on the date of such disposi-  
21 tion for a purchase price equal to such person’s  
22 adjusted basis in such stripped preferred stock.

23 “(4) AMOUNTS TREATED AS ORDINARY IN-  
24 COME.—Any amount included in gross income under  
25 paragraph (1) shall be treated as ordinary income.

1           “(5) STRIPPED PREFERRED STOCK.—For pur-  
2           poses of this subsection—

3                   “(A) IN GENERAL.—The term ‘stripped  
4                   preferred stock’ means any stock described in  
5                   subparagraph (B) if there has been a separa-  
6                   tion in ownership between such stock and any  
7                   dividend on such stock which has not become  
8                   payable.

9                   “(B) DESCRIPTION OF STOCK.—Stock is  
10                  described in this subsection if such stock—

11                           “(i) is limited and preferred as to  
12                           dividends and does not participate in cor-  
13                           porate growth to any significant extent,  
14                           and

15                           “(ii) has a fixed redemption price.

16           “(6) PURCHASE.—For purposes of this sub-  
17           section, the term ‘purchase’ means—

18                   “(A) any acquisition of stock, where

19                   “(B) the basis of such stock is not deter-  
20                   mined in whole or in part by the reference to  
21                   the adjusted basis of such stock in the hands of  
22                   the person from whom acquired.”

23           (2) COORDINATION WITH SECTION 167(e).—  
24           Paragraph (2) of section 167(e) is amended to read  
25           as follows:

1           “(2) COORDINATION WITH OTHER PROVI-  
2           SIONS.—

3           “(A) SECTION 273.—This subsection shall  
4           not apply to any term interest to which section  
5           273 applies.

6           “(B) SECTION 305(e).—This subsection  
7           shall not apply to the holder of the dividend  
8           rights which were separated from any stripped  
9           preferred stock to which section 305(e)(1) ap-  
10          plies.”

11          (3) EFFECTIVE DATE.—The amendments made  
12          by this subsection shall take effect on April 30,  
13          1993.

14          (d) TREATMENT OF CAPITAL GAIN UNDER LIMITA-  
15          TION ON INVESTMENT INTEREST.—

16          (1) IN GENERAL.—Subparagraph (B) of section  
17          163(d)(4) (defining investment income) is amended  
18          to read as follows:

19                 “(B) INVESTMENT INCOME.—The term  
20                 ‘investment income’ means the sum of—

21                         “(i) gross income from property held  
22                         for investment (other than any gain taken  
23                         into account under clause (ii)(I)),

24                         “(ii) the excess (if any) of—

1                   “(I) the net gain attributable to  
2                   the disposition of property held for in-  
3                   vestment, over

4                   “(II) the net capital gain deter-  
5                   mined by only taking into account  
6                   gains and losses from dispositions of  
7                   property held for investment, plus

8                   “(iii) so much of the net capital gain  
9                   referred to in clause (ii)(II) (or, if lesser,  
10                  the net gain referred to in clause (ii)(I)) as  
11                  the taxpayer elects to take into account  
12                  under this clause.”

13                  (2) COORDINATION WITH SPECIAL CAPITAL  
14                  GAINS RATE.—Subsection (h) of section 1, as  
15                  amended by section 8202(b), is amended by adding  
16                  at the end the following new sentence:

17                  “For purposes of the preceding sentence, the net capital  
18                  gain for any taxable year shall be reduced (but not below  
19                  zero) by the amount which the taxpayer elects to take into  
20                  account as investment income for the taxable year under  
21                  section 163(d)(4)(B)(iii).”

22                  (3) EFFECTIVE DATE.—The amendments made  
23                  by this subsection shall apply to taxable years begin-  
24                  ning after December 31, 1992.

1 (e) TREATMENT OF CERTAIN APPRECIATED INVEN-  
2 TORY.—

3 (1) IN GENERAL.—Paragraph (1) of section  
4 751(d) is amended to read as follows:

5 “(1) SUBSTANTIAL APPRECIATION.—

6 “(A) IN GENERAL.—Inventory items of the  
7 partnership shall be considered to have appre-  
8 ciated substantially in value if their fair market  
9 value exceeds 120 percent of the adjusted basis  
10 to the partnership of such property.

11 “(B) CERTAIN PROPERTY EXCLUDED.—  
12 For purposes of subparagraph (A), there shall  
13 be excluded any inventory property if a prin-  
14 cipal purpose for acquiring such property was  
15 to avoid the provisions of this section relating  
16 to inventory items.”

17 (2) EFFECTIVE DATE.—The amendment made  
18 by paragraph (1) shall apply to sales, exchanges,  
19 and distributions after April 30, 1993.

20 **Subpart B—Other Provisions**

21 **SEC. 8207. REPEAL OF LIMITATION ON AMOUNT OF WAGES**

22 **SUBJECT TO HEALTH INSURANCE EMPLOY-**  
23 **MENT TAX.**

24 (a) HOSPITAL INSURANCE TAX.—

1           (1) Paragraph (1) of section 3121(a) (defining  
2 wages) is amended—

3           (A) by inserting “in the case of the taxes  
4 imposed by sections 3101(a) and 3111(a)” after  
5 “(1)”,

6           (B) by striking “applicable contribution  
7 base (as determined under subsection (x))”  
8 each place it appears and inserting “contribu-  
9 tion and benefit base (as determined under sec-  
10 tion 230 of the Social Security Act)”, and

11           (C) by striking “such applicable contribu-  
12 tion base” and inserting “such contribution and  
13 benefit base”.

14           (2) Section 3121 is amended by striking sub-  
15 section (x).

16           (b) SELF-EMPLOYMENT TAX.—

17           (1) Subsection (b) of section 1402 is amend-  
18 ed—

19           (A) by striking “that part of the net” in  
20 paragraph (1) and inserting “in the case of the  
21 tax imposed by section 1401(a), that part of  
22 the net”,

23           (B) by striking “applicable contribution  
24 base (as determined under subsection (k))” in  
25 paragraph (1) and inserting “contribution and

1 benefit base (as determined under section 230  
2 of the Social Security Act)’’,

3 (C) by inserting ‘‘and’’ after ‘‘section  
4 3121(b),’’, and

5 (D) by striking ‘‘and (C) includes’’ and all  
6 that follows through ‘‘3111(b)’’.

7 (2) Section 1402 is amended by striking sub-  
8 section (k).

9 (c) RAILROAD RETIREMENT TAX.—

10 (1) Subparagraph (A) of section 3231(e)(2) is  
11 amended by adding at the end thereof the following  
12 new clause:

13 ‘‘(iii) HOSPITAL INSURANCE TAXES.—

14 Clause (i) shall not apply to—

15 ‘‘(I) so much of the rate applica-  
16 ble under section 3201(a) or 3221(a)  
17 as does not exceed the rate of tax in  
18 effect under section 3101(b), and

19 ‘‘(II) so much of the rate applica-  
20 ble under section 3211(a)(1) as does  
21 not exceed the rate of tax in effect  
22 under section 1401(b).’’

23 (2) Clause (i) of section 3231(e)(2)(B) is  
24 amended to read as follows:

1           “(i) TIER 1 TAXES.—Except as pro-  
2           vided in clause (ii), the term ‘applicable  
3           base’ means for any calendar year the con-  
4           tribution and benefit base determined  
5           under section 230 of the Social Security  
6           Act for such calendar year.”

7           (d) TECHNICAL AMENDMENTS.—

8           (1) Paragraph (1) of section 6413(c) is amend-  
9           ed by striking “section 3101 or section 3201” and  
10          inserting “section 3101(a) or section 3201(a) (to the  
11          extent of so much of the rate applicable under sec-  
12          tion 3201(a) as does not exceed the rate of tax in  
13          effect under section 3101(a))”.

14          (2) Subparagraphs (B) and (C) of section  
15          6413(c)(2) are each amended by striking “section  
16          3101” each place it appears and inserting “section  
17          3101(a)”.

18          (3) Subsection (c) of section 6413 is amended  
19          by striking paragraph (3).

20          (4) Sections 3122 and 3125 are each amended  
21          by striking “applicable contribution base limitation”  
22          and inserting “contribution and benefit base limita-  
23          tion”.

24          (e) EFFECTIVE DATE.—The amendments made by  
25          this section shall apply to 1994 and later calendar years.

1 **SEC. 8208. TOP ESTATE AND GIFT TAX RATES MADE PERMA-**  
 2 **NENT.**

3 (a) GENERAL RULE.—The table contained in para-  
 4 graph (1) of section 2001(c) is amended by striking the  
 5 last item and inserting the following new items:

“Over \$2,500,000 but not over \$3,000,000.	\$1,025,800, plus 53% of the excess over \$2,500,000.
Over \$3,000,000 .....	\$1,290,800, plus 55% of the excess over \$3,000,000.”

6 (b) CONFORMING AMENDMENTS.—

7 (1) Subsection (c) of section 2001 is amended  
 8 by striking paragraph (2) and by redesignating  
 9 paragraph (3) as paragraph (2).

10 (2) Paragraph (2) of section 2001(c), as redesi-  
 11 gnated by paragraph (1), is amended by striking  
 12 “(\$18,340,000 in the case of decedents dying, and  
 13 gifts made, after 1992)”.

14 (3) The last sentence of section 2101(b) is  
 15 amended by striking “section 2001(c)(3)” and in-  
 16 serting “section 2001(c)(2)”.

17 (c) EFFECTIVE DATE.—The amendments made by  
 18 this section shall apply in the case of decedents dying, and  
 19 gifts made, after December 31, 1992.

20 **SEC. 8209. REDUCTION IN DEDUCTIBLE PORTION OF BUSI-**  
 21 **NESS MEALS AND ENTERTAINMENT.**

22 (a) GENERAL RULE.—Paragraph (1) of section  
 23 274(n) (relating to only 80 percent of meal and entertain-

1 ment expenses allowed as deduction) is amended by strik-  
2 ing “80 percent” and inserting “50 percent”.

3 (b) SUBSTANTIATION REQUIREMENT.—In the case of  
4 taxable years beginning after December 31, 1993, Treas-  
5 ury Regulation § 1.274–5T(c)(2)(iii)(B) shall be applied  
6 by substituting “\$20” for “\$25”.

7 (c) CONFORMING AMENDMENT.—The subsection  
8 heading for section 274(n) is amended by striking “80”  
9 and inserting “50”.

10 (d) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to taxable years beginning after  
12 December 31, 1993.

13 **SEC. 8210. ELIMINATION OF DEDUCTION FOR CLUB MEM-**  
14 **BERSHIP FEES.**

15 (a) IN GENERAL.—Subsection (a) of section 274 (re-  
16 lating to disallowance of certain entertainment, etc., ex-  
17 penses) is amended by adding at the end thereof the fol-  
18 lowing new paragraph:

19 “(3) DENIAL OF DEDUCTION FOR CLUB  
20 DUES.—Notwithstanding the preceding provisions of  
21 this subsection, no deduction shall be allowed under  
22 this chapter for amounts paid or incurred for mem-  
23 bership in any club organized for business, pleasure,  
24 recreation, or other social purpose.”

1 (b) EXCEPTION FOR EMPLOYEE RECREATIONAL EX-  
2 PENSES NOT TO APPLY.—Paragraph (4) of section  
3 274(e) is amended by adding at the end thereof the follow-  
4 ing: “This paragraph shall not apply for purposes of sub-  
5 section (a)(3).”

6 (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to amounts paid or incurred after  
8 December 31, 1993.

9 **SEC. 8211. DISALLOWANCE OF DEDUCTION FOR CERTAIN**  
10 **EMPLOYEE REMUNERATION IN EXCESS OF**  
11 **\$1,000,000.**

12 (a) GENERAL RULE.—Section 162 (relating to trade  
13 or business expenses) is amended by redesignating sub-  
14 section (m) as subsection (n) and by inserting after sub-  
15 section (l) the following new subsection:

16 “(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERA-  
17 TION.—

18 “(1) IN GENERAL.—In the case of any publicly  
19 held corporation, no deduction shall be allowed  
20 under this chapter for applicable employee remu-  
21 nation with respect to any covered employee to the  
22 extent that the amount of such remuneration for the  
23 taxable year with respect to such employee exceeds  
24 \$1,000,000.

1           “(2) PUBLICLY HELD CORPORATION.—For pur-  
2           poses of this subsection, the term ‘publicly held cor-  
3           poration’ means any corporation issuing any class of  
4           common equity securities required to be registered  
5           under section 12 of the Securities Exchange Act of  
6           1934.

7           “(3) COVERED EMPLOYEE.—For purposes of  
8           this subsection, the term ‘covered employee’ means  
9           any employee of the taxpayer if—

10                   “(A) as of the close of the taxable year,  
11                   such employee is the chief executive officer of  
12                   the taxpayer or is an individual acting in such  
13                   a capacity, or

14                   “(B) the total compensation for the tax-  
15                   able year of such employee is required to be re-  
16                   ported to shareholders under the Securities Ex-  
17                   change Act of 1934 by reason of such employee  
18                   being among the 4 highest compensated officers  
19                   for the taxable year (other than the chief execu-  
20                   tive officer).

21           “(4) APPLICABLE EMPLOYEE REMUNERA-  
22           TION.—For purposes of this subsection—

23                   “(A) IN GENERAL.—Except as otherwise  
24                   provided in this paragraph, the term ‘applicable  
25                   employee remuneration’ means, with respect to

1 any covered employee for any taxable year, the  
2 aggregate amount allowable as a deduction  
3 under this chapter for such taxable year (deter-  
4 mined without regard to this subsection) for re-  
5 munerated for services performed by such em-  
6 ployee (whether or not during the taxable year).

7 “(B) EXCEPTION FOR REMUNERATION  
8 PAYABLE ON COMMISSION BASIS.—The term  
9 ‘applicable employee remuneration’ shall not in-  
10 clude any remuneration payable on a commis-  
11 sion basis solely on account of income generated  
12 directly by the individual performance of the in-  
13 dividual to whom such remuneration is payable.

14 “(C) OTHER PERFORMANCE-BASED COM-  
15 PENSATION.—The term ‘applicable employee re-  
16 munerated’ shall not include any remuneration  
17 payable solely on account of the attainment of  
18 one or more performance goals, but only if—

19 “(i) the performance goals are deter-  
20 mined by a compensation committee of the  
21 board of directors of the taxpayer which is  
22 comprised solely of 2 or more outside di-  
23 rectors,

24 “(ii) the material terms under which  
25 the remuneration is to be paid, including

1 the performance goals, are disclosed to  
2 shareholders and approved by a majority of  
3 the vote in a separate shareholder vote be-  
4 fore the payment of such remuneration,  
5 and

6 “(iii) before any payment of such re-  
7 munerations, the compensation committee  
8 referred to in clause (i) certifies that the  
9 performance goals and any other material  
10 terms were in fact satisfied.

11 “(D) EXCEPTION FOR EXISTING BINDING  
12 CONTRACTS.—The term ‘applicable employee  
13 remuneration’ shall not include any remunera-  
14 tion payable under a written binding contract  
15 which was in effect on February 17, 1993, and  
16 which was not modified thereafter in any mate-  
17 rial respect before such remuneration is paid.

18 “(E) REMUNERATION.—For purposes of  
19 this paragraph, the term ‘remuneration’ in-  
20 cludes any remuneration (including benefits) in  
21 any medium other than cash, but shall not in-  
22 clude—

23 “(i) any payment referred to in so  
24 much of section 3121(a)(5) as precedes  
25 subparagraph (E) thereof, and

1           “(ii) any benefit provided to or on be-  
2           half of an employee if at the time such  
3           benefit is provided it is reasonable to be-  
4           lieve that the employee will be able to ex-  
5           clude such benefit from gross income  
6           under this chapter.

7           For purposes of clause (i), section 3121(a)(5)  
8           shall be applied without regard to section  
9           3121(v)(1).

10           “(F) COORDINATION WITH DISALLOWED  
11           GOLDEN PARACHUTE PAYMENTS.—The dollar  
12           limitation contained in paragraph (1) shall be  
13           reduced (but not below zero) by the amount (if  
14           any) which would have been included in the ap-  
15           plicable employee remuneration of the covered  
16           employee for the taxable year but for being dis-  
17           allowed under section 280G.”

18           (b) EFFECTIVE DATE.—The amendment made by  
19           subsection (a) shall apply to amounts which would other-  
20           wise be deductible for taxable years beginning on or after  
21           January 1, 1994.

1 **SEC. 8212. REDUCTION IN COMPENSATION TAKEN INTO AC-**  
2 **COUNT IN DETERMINING CONTRIBUTIONS**  
3 **AND BENEFITS UNDER QUALIFIED RETIRE-**  
4 **MENT PLANS.**

5 (a) QUALIFICATION REQUIREMENT.—

6 (1) IN GENERAL.—Section 401(a)(17) is  
7 amended—

8 (A) by striking “\$200,000” in the first  
9 sentence and inserting “\$150,000”,

10 (B) by striking the second sentence, and

11 (C) by adding at the end the following new  
12 subparagraph:

13 “(B) COST-OF-LIVING ADJUSTMENT.—

14 “(i) IN GENERAL.—If, for any cal-  
15 endar year after 1994, the excess (if any)  
16 of—

17 “(I) \$150,000, increased by the  
18 cost-of-living adjustment for the cal-  
19 endar year, over

20 “(II) the dollar amount in effect  
21 under subparagraph (A) for taxable  
22 years beginning in the calendar year,  
23 is equal to or greater than \$10,000, then  
24 the \$150,000 amount under subparagraph  
25 (A) (as previously adjusted under this sub-  
26 paragraph) for any taxable year beginning

1 in any subsequent calendar year shall be  
2 increased by \$10,000.

3 “(ii) COST-OF-LIVING ADJUSTMENT.—  
4 The cost-of-living adjustment for any cal-  
5 endar year shall be the adjustment made  
6 under section 415(d) for such calendar  
7 year, except that the base period for pur-  
8 poses of section 415(d)(1)(A) shall be the  
9 calendar quarter beginning October 1,  
10 1993.”

11 (2) CONFORMING AMENDMENT.—Section  
12 401(a)(17) is amended by striking “(17) A trust”  
13 and inserting:

14 “(17) COMPENSATION LIMIT.—

15 “(A) IN GENERAL.—A trust”.

16 (b) SIMPLIFIED EMPLOYEE PENSIONS.—

17 (1) IN GENERAL.—Paragraphs (3)(C) and  
18 (6)(D)(ii) of section 408(k) are each amended by  
19 striking “\$200,000” and inserting “\$150,000”.

20 (2) COST-OF-LIVING.—Paragraph (8) of section  
21 408(k) is amended to read as follows:

22 “(8) COST-OF-LIVING ADJUSTMENT.—The Sec-  
23 retary shall adjust the \$300 amount in paragraph  
24 (2)(C) at the same time and in the same manner as  
25 under section 415(d) and shall adjust the \$150,000

1 amount in paragraphs (3)(C) and (6)(D)(ii) at the  
2 same time, and by the same amount, as the adjust-  
3 ment under section 401(a)(17)(B).”

4 (c) OTHER RELATED PROVISIONS.—

5 (1) IN GENERAL.—Sections 404(l) and  
6 505(b)(7) are each amended—

7 (A) by striking “\$200,000” in the first  
8 sentence and inserting “\$150,000”, and

9 (B) by striking the second sentence and in-  
10 sserting “The Secretary shall adjust the  
11 \$150,000 amount at the same time, and by the  
12 same amount, as the adjustment under section  
13 401(a)(17)(B).”

14 (2) CONFORMING AMENDMENT.—The heading  
15 for section 505(b)(7) is amended by striking  
16 “\$200,000”.

17 (d) EFFECTIVE DATES.—

18 (1) IN GENERAL.—Except as provided in para-  
19 graph (2), the amendments made by this section  
20 shall apply to benefits accruing in plan years begin-  
21 ning after December 31, 1993.

22 (2) EXCEPTION FOR COLLECTIVELY BARGAINED  
23 PLANS.—In the case of a plan maintained pursuant  
24 to 1 or more collective bargaining agreements be-  
25 tween employee representatives and 1 or more em-

1 ployers ratified before the date of the enactment of  
2 this Act, the amendments made by this section shall  
3 not apply to contributions or benefits pursuant to  
4 such agreements for plan years beginning before the  
5 earlier of—

6 (A) the latest of—

7 (i) January 1, 1994,

8 (ii) the date on which the last of such  
9 collective bargaining agreements termi-  
10 nates (without regard to any extension,  
11 amendment, or modification of such agree-  
12 ments on or after such date of enactment),

13 or

14 (iii) in the case of a plan maintained  
15 pursuant to collective bargaining under the  
16 Railway Labor Act, the date of execution  
17 of an extension or replacement of the last  
18 of such collective bargaining agreements in  
19 effect on such date of enactment, or

20 (B) January 1, 1997.

21 (3) TRANSITION RULE FOR STATE AND LOCAL  
22 PLANS.—

23 (A) IN GENERAL.—In the case of an eligi-  
24 ble participant in a governmental plan (within  
25 the meaning of section 414(d) of the Internal

1 Revenue Code of 1986), the dollar limitation  
2 under section 401(a)(17) of such Code shall not  
3 apply to the extent the amount of compensation  
4 which is allowed to be taken into account under  
5 the plan would be reduced below the amount  
6 which was allowed to be taken into account  
7 under the plan as in effect on July 1, 1993.

8 (B) ELIGIBLE PARTICIPANT.—For pur-  
9 poses of subparagraph (A), an eligible partici-  
10 pant is an individual who first became a partici-  
11 pant in the plan during a plan year beginning  
12 before the 1st plan year beginning after the  
13 earlier of—

14 (i) the plan year in which the plan is  
15 amended to reflect the amendments made  
16 by this section, or

17 (ii) December 31, 1995.

18 (C) PLAN MUST BE AMENDED TO INCOR-  
19 PORATE LIMITS.—This paragraph shall not  
20 apply to any eligible participant of a plan unless  
21 the plan is amended so that the plan incor-  
22 porates by reference the dollar limitation under  
23 section 401(a)(17) of the Internal Revenue  
24 Code of 1986, effective with respect to  
25 noneligible participants for plan years beginning

1 after December 31, 1995 (or earlier if the plan  
2 amendment so provides).

3 **SEC. 8213. MODIFICATION TO DEDUCTION FOR CERTAIN**  
4 **MOVING EXPENSES.**

5 (a) DOLLAR LIMITATION.—

6 (1) IN GENERAL.—Paragraph (3) of section  
7 217(b) is amended by striking subparagraphs (A)  
8 and (B) and inserting the following:

9 “(A) DOLLAR LIMIT.—

10 “(i) IN GENERAL.—The aggregate  
11 amount allowable as a deduction under  
12 subsection (a) in connection with a com-  
13 mencement of work shall not exceed  
14 \$10,000, of which the aggregate amount  
15 which is attributable to expenses described  
16 in subparagraph (C) or (D) of paragraph  
17 (1) shall not exceed \$1,500.

18 “(ii) COST-OF-LIVING ADJUSTMENT.—  
19 In the case of taxable years beginning in  
20 calendar years after 1994, the \$10,000  
21 amount under clause (i) shall be increased  
22 by an amount equal to the product of such  
23 dollar amount and the cost-of-living adjust-  
24 ment determined under section 1(f)(3) for  
25 the calendar year in which the taxable year

1 begins, except that section 1(f)(3)(B) shall  
2 be applied by substituting '1993' for  
3 '1992'. Any amount determined under this  
4 clause which is not a multiple of \$50 shall  
5 be rounded to the next lowest multiple of  
6 \$50.

7 “(B) HUSBAND AND WIFE.—If a husband  
8 and wife both commence work at a new prin-  
9 cipal place of work within the same general lo-  
10 cation, subparagraph (A) shall be applied as if  
11 there was only 1 commencement of work. In the  
12 case of a husband and wife filing separate re-  
13 turns, subparagraph (A) shall be applied by  
14 substituting '\$5,000' for '\$10,000' and '\$750'  
15 for '\$1,500’.”

16 (2) FOREIGN MOVES.—Paragraph (1) of section  
17 217(h) is amended by striking subparagraphs (B)  
18 and (C) and inserting:

19 “(B) subsection (b)(2)(A) shall be applied  
20 by substituting '\$4,500' for '\$1,500', and

21 “(C) subsection (b)(2)(B) shall be applied  
22 as if the last sentence of such subsection read  
23 as follows: 'In the case of a husband and wife  
24 filing separate returns, subparagraph (A) (as

1           modified by subsection (h)(1)(B)) shall be ap-  
2           plied by substituting “\$2,250” for “\$4,500”.’.’

3           (b) REPEAL OF DEDUCTION FOR QUALIFIED RESI-  
4 DENCE SALE, ETC., EXPENSES.—

5           (1) IN GENERAL.—Paragraph (1) of section  
6           217(b) (defining moving expenses) is amended by in-  
7           serting “or” at the end of subparagraph (C), by  
8           striking “, or” at the end of subparagraph (D) and  
9           inserting a period, and by striking  
10          subparagraph (E).

11          (2) CONFORMING AMENDMENTS.—

12           (A) Subsection (b) of section 217, as  
13           amended by subsection (a), is amended by  
14           striking paragraph (2) and redesignating para-  
15           graph (3) as paragraph (2).

16           (B) Section 217 is amended by striking  
17           subsection (e).

18          (c) DEDUCTION DISALLOWED FOR MEAL EX-  
19 PENSES.—Paragraph (1) of section 217(b) is amended—

20           (1) by striking “meals and lodging” in subpara-  
21           graphs (B), (C) and (D) and inserting “lodging”,  
22           and

23           (2) by adding at the end thereof the following  
24           new sentence:

1 “Such term shall not include any expenses for  
2 meals.”

3 (d) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to expenses incurred after Decem-  
5 ber 31, 1993.

6 **SEC. 8214. SIMPLIFICATION OF INDIVIDUAL ESTIMATED**  
7 **TAX SAFE HARBOR BASED ON LAST YEAR’S**  
8 **TAX.**

9 (a) IN GENERAL.—Paragraph (1) of section 6654(d)  
10 (relating to amount of required estimated tax install-  
11 ments) is amended by striking subparagraphs (C), (D),  
12 (E), and (F) and by inserting the following new subpara-  
13 graph:

14 “(C) LIMITATION ON USE OF PRECEDING  
15 YEAR’S TAX.—

16 “(i) IN GENERAL.—If the adjusted  
17 gross income shown on the return of the  
18 individual for the preceding taxable year  
19 exceeds \$150,000, clause (ii) of subpara-  
20 graph (B) shall be applied by substituting  
21 ‘110 percent’ for ‘100 percent’.

22 “(ii) SEPARATE RETURNS.—In the  
23 case of a married individual (within the  
24 meaning of section 7703) who files a sepa-  
25 rate return for the taxable year for which

1 the amount of the installment is being de-  
2 termined, clause (i) shall be applied by  
3 substituting ‘\$75,000’ for ‘\$150,000’.

4 “(iii) SPECIAL RULE.—In the case of  
5 an estate or trust, adjusted gross income  
6 shall be determined as provided in section  
7 67(e).”

8 (b) CONFORMING AMENDMENTS.—

9 (1) Subparagraph (A) of section 6654(j)(3) is  
10 amended by striking “and subsection (d)(1)(C)(iii)  
11 shall not apply”.

12 (2) Paragraph (4) of section 6654(l) is amend-  
13 ed by striking “paragraphs (1)(C)(iv) and (2)(B)(i)  
14 of subsection (d)” and inserting “subsection  
15 (d)(2)(B)(i)”.

16 (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to taxable years beginning after  
18 December 31, 1993.

19 **SEC. 8215. SOCIAL SECURITY AND TIER 1 RAILROAD RE-**  
20 **TIREMENT BENEFITS.**

21 (a) ADDITIONAL INCLUSION FOR CERTAIN TAX-  
22 PAYERS.—

23 (1) IN GENERAL.—Subsection (a) of section 86  
24 (relating to social security and tier 1 railroad retire-

1 ment benefits) is amended by adding at the end the  
2 following new paragraph:

3 “(2) ADDITIONAL AMOUNT.—In the case of a  
4 taxpayer with respect to whom the amount deter-  
5 mined under subsection (b)(1)(A) exceeds the ad-  
6 justed base amount, the amount included in gross  
7 income under this section shall be equal to the lesser  
8 of—

9 “(A) the sum of—

10 “(i) 85 percent of such excess, plus

11 “(ii) the lesser of the amount deter-  
12 mined under paragraph (1) or an amount  
13 equal to one-half of the difference between  
14 the adjusted base amount and the base  
15 amount of the taxpayer, or

16 “(B) 85 percent of the social security bene-  
17 fits received during the taxable year.”

18 (2) CONFORMING AMENDMENTS.—Subsection  
19 (a) of section 86 is amended—

20 (A) by striking “Gross” and inserting:

21 “(1) IN GENERAL.—Except as provided in para-  
22 graph (2), gross”, and

23 (B) by redesignating paragraphs (1) and  
24 (2) as subparagraphs (A) and (B), respectively.

1 (b) ADJUSTED BASE AMOUNT.—Section 86(c) (de-  
2 fining base amount) is amended to read as follows:

3 “(c) BASE AMOUNT AND ADJUSTED BASE  
4 AMOUNT.—For purposes of this section—

5 “(1) BASE AMOUNT.—The term ‘base amount’  
6 means—

7 “(A) except as otherwise provided in this  
8 paragraph, \$25,000,

9 “(B) \$32,000 in the case of a joint return,  
10 and

11 “(C) zero in the case of a taxpayer who—

12 “(i) is married as of the close of the  
13 taxable year (within the meaning of section  
14 7703) but does not file a joint return for  
15 such year, and

16 “(ii) does not live apart from his  
17 spouse at all times during the taxable year.

18 “(2) ADJUSTED BASE AMOUNT.—The term ‘ad-  
19 justed base amount’ means—

20 “(A) except as otherwise provided in this  
21 paragraph, \$32,000,

22 “(B) \$40,000 in the case of a joint return,  
23 and

24 “(C) zero in the case of a taxpayer de-  
25 scribed in paragraph (1)(C).”

1 (c) TRANSFERS TO THE HOSPITAL INSURANCE  
2 TRUST FUND.—

3 (1) IN GENERAL.—Paragraph (1) of section  
4 121(e) of the Social Security Amendments of 1983  
5 (Public Law 92–21) is amended by—

6 (A) striking “There” and inserting:

7 “(A) There”;

8 (B) inserting “(i)” immediately following  
9 “amounts equivalent to”; and

10 (C) striking the period and inserting the  
11 following: “, less (ii) the amounts equivalent to  
12 the aggregate increase in tax liabilities under  
13 chapter 1 of the Internal Revenue Code of 1986  
14 which is attributable to the amendments to sec-  
15 tion 86 of such Code made by section 8215 of  
16 the Revenue Reconciliation Act of 1993.

17 “(B) There are hereby appropriated to the  
18 hospital insurance trust fund amounts equal to  
19 the increase in tax liabilities described in sub-  
20 paragraph (A)(ii). Such appropriated amounts  
21 shall be transferred from the general fund of  
22 the Treasury on the basis of estimates of such  
23 tax liabilities made by the Secretary of the  
24 Treasury. Transfers shall be made pursuant to  
25 a schedule made by the Secretary of the Treas-

1           ury that takes into account estimated timing of  
2           collection of such liabilities.”

3           (2) DEFINITION.—Paragraph (3) of section  
4           121(e) of such Act is amended by redesignating sub-  
5           paragraph (B) as subparagraph (C), and by insert-  
6           ing after subparagraph (A) the following new sub-  
7           paragraph:

8                   “(B) HOSPITAL INSURANCE TRUST  
9                   FUND.—The term ‘hospital insurance trust  
10                  fund’ means the fund established pursuant to  
11                  section 1817 of the Social Security Act.”.

12           (3) CONFORMING AMENDMENT.—Paragraph (2)  
13           of section 121(e) of such Act is amended in the first  
14           sentence by striking “paragraph (1)” and inserting  
15           “paragraph (1)(A).”

16           (4) TECHNICAL AMENDMENTS.—Paragraph  
17           (1)(A) of section 121(e) of such Act, as redesignated  
18           and amended by paragraph (1), is amended by strik-  
19           ing “1954” and inserting “1986”.

20           (d) EFFECTIVE DATE.—The amendments made by  
21           subsections (a) and (b) shall apply to taxable years begin-  
22           ning after December 31, 1993.

1 **PART II—PROVISIONS AFFECTING BUSINESSES**

2 **SEC. 8221. INCREASE IN TOP MARGINAL RATE UNDER SEC-**  
3 **TION 11.**

4 (a) GENERAL RULE.—Paragraph (1) of section 11(b)  
5 (relating to amount of tax) is amended—

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

8 (2) by striking subparagraph (C) and inserting  
9 the following:

10 “(C) 34 percent of so much of the taxable  
11 income as exceeds \$75,000 but does not exceed  
12 \$10,000,000, and

13 “(D) 35 percent of so much of the taxable  
14 income as exceeds \$10,000,000.”, and

15 (3) by adding at the end thereof the following  
16 new sentence: “In the case of a corporation which  
17 has taxable income in excess of \$15,000,000, the  
18 amount of the tax determined under the foregoing  
19 provisions of this paragraph shall be increased by an  
20 additional amount equal to the lesser of (i) 3 percent  
21 of such excess, or (ii) \$100,000.”

22 (b) CERTAIN PERSONAL SERVICE CORPORATIONS.—  
23 Paragraph (2) of section 11(b) is amended by striking “34  
24 percent” and inserting “35 percent”.

25 (c) CONFORMING AMENDMENTS.—

1           (1) Clause (iii) of section 852(b)(3)(D) is  
2 amended by striking “66 percent” and inserting “65  
3 percent”.

4           (2) Subsection (a) of section 1201 is amended  
5 by striking “34 percent” each place it appears and  
6 inserting “35 percent”.

7           (3) Paragraphs (1) and (2) of section 1445(e)  
8 are each amended by striking “34 percent” and in-  
9 serting “35 percent”.

10          (d) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to taxable years beginning on or  
12 after January 1, 1993; except that the amendment made  
13 by subsection (c)(3) shall take effect on the date of the  
14 enactment of this Act.

15 **SEC. 8222. DISALLOWANCE OF DEDUCTION FOR LOBBYING**  
16 **EXPENDITURES.**

17          (a) DISALLOWANCE OF DEDUCTION.—

18           (1) IN GENERAL.—Part IX of subchapter B of  
19 chapter 1 (relating to items not deductible) is  
20 amended by adding at the end the following new sec-  
21 tion:

22 **“SEC. 280I. LOBBYING EXPENDITURES.**

23          “(a) DEDUCTION DISALLOWED.—No deduction shall  
24 be allowed under this chapter for any amount paid or in-  
25 curred—

1           “(1) for lobbying activities, or

2           “(2) to another person for the conduct of lobby-  
3           ing activities.

4           “(b) LOBBYING ACTIVITIES.—For purposes of this  
5           section—

6           “(1) IN GENERAL.—The term ‘lobbying activity’  
7           means—

8           “(A) any lobbying contact, or

9           “(B) any activity in support of a lobbying  
10           contact.

11           “(2) SUPPORT ACTIVITIES.—For purposes of  
12           paragraph (1)(B), the following shall be treated as  
13           in support of a lobbying contact:

14           “(A) Any preparation or planning activity  
15           relating to a lobbying contact (including, in the  
16           case of a lobbyist, the formulation, review, and  
17           management of the lobbying contacts on behalf  
18           of a client).

19           “(B) Any research or other background  
20           work relating to a lobbying contact.

21           “(C) Any activity coordinating the lobbying  
22           activity of 2 or more persons.

23           “(3) MEALS, ENTERTAINMENT, OR TRAVEL.—  
24           Any amount paid or incurred in connection with the  
25           providing of meals, entertainment, or travel to a cov-

1       ered legislative or executive branch official (or to an  
2       individual accompanying such official) shall be treat-  
3       ed as paid or incurred for a lobbying activity without  
4       regard to whether it is in support of a lobbying con-  
5       tact.

6       “(c) LOBBYING CONTACT.—For purposes of this sec-  
7       tion—

8               “(1) IN GENERAL.—The term ‘lobbying contact’  
9       means—

10               “(A) in the case of a lobbyist, any oral or  
11               written communication with a covered legisla-  
12               tive or executive branch official, and

13               “(B) in the case of any other person, any  
14               oral or written communication with a covered  
15               legislative or executive branch official in connec-  
16               tion with an attempt to influence governmental  
17               actions described in paragraph (2).

18               “(2) GOVERNMENTAL ACTIONS AFFECTED.—  
19       The following governmental actions are described in  
20       this paragraph:

21               “(A) The formulation, modification, adop-  
22               tion, or repeal of legislation (including legisla-  
23               tive proposals).

24               “(B) The formulation, modification, adop-  
25               tion, or repeal of a Federal rule, regulation,

1 Executive order, or any other program, policy,  
2 or position of the United States.

3 “(C) The administration or execution of a  
4 Federal program or policy (including the nego-  
5 tiation, award, or administration of a Federal  
6 contract, grant, loan, permit, or license).

7 “(3) EXCEPTIONS.—The term ‘lobbying con-  
8 tact’ shall not include any contact—

9 “(A) required by subpoena, civil investiga-  
10 tive demand, or otherwise compelled by statute,  
11 regulation, or other action of Congress, a State  
12 or local legislative body, or a Federal agency,

13 “(B) made in response to a notice in the  
14 Federal Register, Commerce Business Daily, or  
15 other similar publication soliciting communica-  
16 tions from the public and directed to the agency  
17 official specifically designated in the notice to  
18 receive such communications,

19 “(C) made to Federal agency officials with  
20 regard to judicial proceedings, criminal or civil  
21 law enforcement inquiries, investigations or pro-  
22 ceedings, or filings required by statute or regu-  
23 lation,

24 “(D) made in compliance with written  
25 agency procedures regarding an adjudication

1 conducted by the agency under section 554 of  
2 title 5, United States Code, or any substantially  
3 similar provision, or

4 “(E) made on behalf of an individual with  
5 regard to such individual’s benefits, employ-  
6 ment, other personal matters involving only  
7 that individual, or disclosures by that individual  
8 pursuant to applicable whistleblower statutes,

9 “(F) in the case of any governmental ac-  
10 tion described in paragraph (2) (B) or (C),  
11 which consists of written comments filed in a  
12 public docket or other communications made on  
13 the record in a public proceeding, or

14 “(G) in the case of any governmental ac-  
15 tion described in paragraph (2)(C), which con-  
16 sists of communications which are made to offi-  
17 cials serving in the agency responsible for tak-  
18 ing such action who serve in the Senior Execu-  
19 tive Service or who are members of the uni-  
20 formed services whose pay grade is lower than  
21 0–9 under section 201 of title 37, United States  
22 Code.

23 “(d) SPECIAL RULE FOR EXEMPT ORGANIZA-  
24 TIONS.—

1           “(1) TREATMENT OF DUES, ETC.—Subsection  
2           (a) shall apply to dues, assessments, or other similar  
3           amounts paid by any person to an organization ex-  
4           empt from taxation under this chapter (other than  
5           an organization described in section 170(c)) to the  
6           extent such dues, assessments, or amounts are at-  
7           tributable to amounts paid or incurred by the orga-  
8           nization which are described in subsection (a).

9           “(2) SPECIAL RULE FOR CHARITIES.—In the  
10          case of an organization described in section 170(c)  
11          (other than paragraph (1) thereof or section  
12          170(b)(1)(A)(i)), subsection (a) shall apply to any  
13          dues, assessments, contributions, or other similar  
14          amounts which are paid to the organization and  
15          which are otherwise deductible under this chapter to  
16          the extent that any such amount—

17                 “(A) is attributable to amounts paid or in-  
18                 curred by the organization which are described  
19                 in subsection (a),

20                 “(B) is in connection with lobbying activi-  
21                 ties of direct financial interest to the payor’s  
22                 (or a related person’s) trade or business, and

23                 “(C) when added to all other payments  
24                 made by the payor (and any related person) to

1 the organization during the calendar year in  
2 which the taxable year begins, exceeds \$2,000.

3 “(3) ALLOCATION RULES.—For purposes of  
4 this subsection—

5 “(A) dues or other similar amounts paid  
6 during any calendar year shall, except as pro-  
7 vided by the Secretary, only be attributable to  
8 amounts not deductible under subsection (a)  
9 which are paid or incurred by the organization  
10 during such calendar year, and

11 “(B) amounts which are not deductible  
12 under subsection (a) shall be treated as paid  
13 first out of dues or other similar amounts.

14 “(4) REPORTING REQUIREMENTS.—

**“For requirements of organization to notify con-  
tributors, see section 60500.**

15 “(e) OTHER RULES AND DEFINITIONS.—For pur-  
16 poses of this section—

17 “(1) SPECIAL RULE FOR CERTAIN TAX-  
18 PAYERS.—In the case of—

19 “(A) any taxpayer engaged in the trade or  
20 business of conducting activities described in  
21 subsection (a), or

22 “(B) any taxpayer who is an employee who  
23 is reimbursed by his employer for expenses in-  
24 curred in conducting such activities,

1 subsection (a) shall not apply to expenditures of the  
2 taxpayer in conducting such activities on behalf of  
3 another person or his employer (but shall apply to  
4 payments by such other person or the employer to  
5 the taxpayer for conducting the activities).

6 “(2) AGENCY.—The term ‘agency’ has the same  
7 meaning given such term by section 551(1) of title  
8 5, United States Code.

9 “(3) COVERED EXECUTIVE BRANCH OFFI-  
10 CIAL.—The term ‘covered executive branch official’  
11 means—

12 “(A) the President,

13 “(B) the Vice President,

14 “(C) any officer or employee of the Execu-  
15 tive Office of the President, other than a cleri-  
16 cal or secretarial employee,

17 “(D) any officer or employee serving in an  
18 Executive level I, II, III, IV, or V position, as  
19 designated in statute or Executive order,

20 “(E) any officer or employee serving in a  
21 Senior Executive Service position as defined  
22 under section 3232(a)(2) of title 5, United  
23 States Code,

1           “(F) any member of the uniformed services  
2 whose pay grade is at or in excess of O-7 under  
3 section 201 of title 37, United States Code, and

4           “(G) any officer or employee serving in a  
5 position of confidential or policy-determining  
6 character under schedule C of the excepted  
7 service pursuant to section 7511 of title 5,  
8 United States Code.

9           “(4) COVERED LEGISLATIVE BRANCH OFFI-  
10 CIAL.—The term ‘covered legislative branch official’  
11 means—

12           “(A) a Member of Congress,

13           “(B) an elected officer of Congress,

14           “(C) any employee of a Member of the  
15 House of Representatives, of a committee of the  
16 House of Representatives, or on the leadership  
17 staff of the House of Representatives,

18           “(D) any employee of a Senator, of a Sen-  
19 ate committee, or on the leadership staff of the  
20 Senate, and

21           “(E) any employee of a joint committee of  
22 the Congress.

23           Such term includes any member, officer, or employee  
24 of a State or local legislative body.

1           “(5) LOBBYIST.—The term ‘lobbyist’ means  
2 any person who is employed or retained by another  
3 person to perform services which include any at-  
4 tempt to influence a governmental action described  
5 in subsection (c)(2). Such term does not include a  
6 person whose lobbying activities are only incidental  
7 to, and are not a significant part of, the services the  
8 person performs for such other person. For purposes  
9 of the preceding sentence, lobbying activities shall  
10 not include activities described in subsection (c)(3).

11           “(6) LEGISLATION.—The term ‘legislation’ has  
12 the meaning given such term by section 4911(e)(2).

13           “(7) COORDINATION WITH SECTION 4911.—No  
14 tax shall be imposed under section 4911 on any  
15 amount with respect to which a deduction is not al-  
16 lowed by reason of subsection (d).

17           “(f) CROSS REFERENCE.—

**“For disallowance of deductions for grassroots  
lobbying expenditures, see section 162(e)(2).”**

18           (2) CONFORMING AMENDMENTS.—

19           (A) Section 162(e) (relating to appear-  
20 ances, etc., with respect to legislation) is  
21 amended to read as follows:

22           “(e) DENIAL OF DEDUCTION FOR CERTAIN POLITI-  
23 CAL EXPENDITURES.—

1           “(1) IN GENERAL.—No deduction shall be al-  
2           lowed under this chapter for any amount paid or in-  
3           curred—

4                   “(A) for participation in, or intervention  
5           in, any political campaign on behalf of (or in  
6           opposition to) any candidate for public office, or

7                   “(B) in connection with any attempt to in-  
8           fluence the general public, or segments thereof,  
9           with respect to legislative matters, elections, or  
10          referendums.

11          “(2) APPLICATION TO DUES.—

12                   “(A) IN GENERAL.—No deduction shall be  
13          allowed under this chapter for the portion of  
14          dues or other similar amounts paid by the tax-  
15          payer to an organization which is allocable to  
16          the expenditures described in paragraph (1).

17                   “(B) ALLOCATION.—For purposes of sub-  
18          paragraph (A), expenditures described in para-  
19          graph (1) shall be treated as paid first out of  
20          dues or other similar amounts.

21          “(3) CROSS REFERENCE.—

**“For disallowance of deductions for lobbying ex-  
                  penditures, see section 280I.”**

1 (B) The table of sections for part IX of  
2 subchapter B of chapter 1 is amended by add-  
3 ing at the end the following new item:

“Sec. 280I. Lobbying expenditures.”

4 (3) EFFECTIVE DATE.—The amendments made  
5 by this subsection shall apply to amounts paid or in-  
6 curred after December 31, 1993.

7 (b) REPORTING REQUIREMENTS RELATING TO LOB-  
8 BYING EXPENDITURES.—

9 (1) IN GENERAL.—Subpart B of part III of  
10 subchapter A of chapter 61 (relating to information  
11 concerning transactions with other persons) is  
12 amended by adding at the end the following new sec-  
13 tion:

14 **“SEC. 60500. RETURNS RELATING TO LOBBYING EXPENDI-  
15 TURES OF CERTAIN ORGANIZATIONS.**

16 “(a) REQUIREMENT OF REPORTING.—Each organi-  
17 zation described in section 280I(d) shall make a return,  
18 according to the forms or regulations prescribed by the  
19 Secretary, setting forth the names and addresses of per-  
20 sons paying dues to the organization, the amount of the  
21 dues paid by such person, and the portion of such dues  
22 which is nondeductible under section 280I.

23 “(b) STATEMENTS TO BE FURNISHED TO PERSONS  
24 WITH RESPECT TO WHOM INFORMATION IS FUR-  
25 NISHED.—Any organization required to make a return

1 under subsection (a) shall furnish to each person whose  
2 name is required to be set forth in such return a written  
3 statement showing—

4           “(1) the name and address of the organization,  
5           and

6           “(2) the dues paid by the person during the cal-  
7           endar year and the portion of such dues which is  
8           nondeductible under section 280I.

9 The written statement required under the preceding sen-  
10 tence shall be furnished (either in person or in a statement  
11 mailing by first-class mail which includes adequate notice  
12 that the statement is enclosed) to the persons on or before  
13 January 31 of the year following the calendar year for  
14 which the return under subsection (a) was made and shall  
15 be in such form as the Secretary may prescribe by regula-  
16 tions.

17           “(c) DE MINIMUS EXCEPTION.—This section shall  
18 not apply to any organization for any calendar year if the  
19 organization’s lobbying expenditures described in section  
20 280I(a) for such year are less than \$2,000. For purposes  
21 of the preceding sentence, overhead costs otherwise alloca-  
22 ble to lobbying activities shall not be taken into account.

23           “(d) WAIVER.—The Secretary may waive the report-  
24 ing requirements of this section with respect to any orga-  
25 nization or class of organizations if the Secretary deter-

1 mines that such reporting is not necessary to carry out  
2 the purposes of section 280I.

3 “(e) DUES.—For purposes of this section, the term  
4 ‘dues’ includes assessments, contributions, and other simi-  
5 lar amounts.”

6 (2) PENALTIES.—

7 (A) RETURNS.—Subparagraph (B) of sec-  
8 tion 6724(d)(1) (defining information return) is  
9 amended by striking “or” at the end of clause  
10 (xi), by striking the period at the end of the  
11 clause (xii) relating to section 4101(d) and in-  
12 serting a comma, by redesignating the clause  
13 (xii) relating to section 338(h)(10) as clause  
14 (xiii), by striking the period at the end of clause  
15 (xiii) (as so redesignated) and inserting “, or”,  
16 and by adding at the end the following new  
17 clause:

18 “(xiv) section 6050O(a) (relating to  
19 information on nondeductible lobbying ex-  
20 penditures).”

21 (B) PAYEE STATEMENTS.—Paragraph (2)  
22 of section 6724(d) (defining payee statement) is  
23 amended by striking “or” at the end of sub-  
24 paragraph (R), by striking the period at the  
25 end of subparagraph (S) and inserting “, or”,

1 and by adding at the end the following new sub-  
2 paragraph:

3 “(T) section 60500(b) (relating to returns  
4 on nondeductible lobbying expenditures).”

5 (3) CONFORMING AMENDMENT.—The table of  
6 sections for subpart B of part III of subchapter A  
7 of chapter 61 is amended by adding at the end the  
8 following new item:

“Sec. 60500. Returns relating to lobbying expenditures of certain  
organizations.”

9 (4) EFFECTIVE DATE.—The amendments made  
10 by this subsection shall apply to calendar years be-  
11 ginning after December 31, 1993.

12 **SEC. 8223. MARK TO MARKET ACCOUNTING METHOD FOR**  
13 **SECURITIES DEALERS.**

14 (a) GENERAL RULE.—Subpart D of part II of sub-  
15 chapter E of chapter 1 (relating to inventories) is amend-  
16 ed by adding at the end thereof the following new section:

17 **“SEC. 475. MARK TO MARKET ACCOUNTING METHOD FOR**  
18 **DEALERS IN SECURITIES.**

19 “(a) GENERAL RULE.—Notwithstanding any other  
20 provision of this subpart, the following rules shall apply  
21 to securities held by a dealer in securities:

22 “(1) Any security which is inventory in the  
23 hands of the dealer shall be included in inventory at  
24 its fair market value.

1           “(2) In the case of any security which is not in-  
2           ventory in the hands of the dealer and which is held  
3           at the close of any taxable year—

4                   “(A) the dealer shall recognize gain or loss  
5                   as if such security were sold for its fair market  
6                   value on the last business day of such taxable  
7                   year, and

8                   “(B) any gain or loss shall be taken into  
9                   account for such taxable year.

10          Proper adjustment shall be made in the amount of  
11          any gain or loss subsequently realized for gain or  
12          loss taken into account under the preceding sen-  
13          tence. The Secretary may provide by regulations for  
14          the application of this paragraph at times other than  
15          the times provided in this paragraph.

16          “(b) EXCEPTIONS.—

17                   “(1) IN GENERAL.—Subsection (a) shall not  
18                   apply to—

19                           “(A) any security held for investment, and

20                           “(B) any security which is a hedge with re-  
21                   spect to—

22                                   “(i) a security to which subsection (a)  
23                   does not apply, or

1                   “(ii) a position, right to income, or a  
2                   liability which is not a security in the  
3                   hands of the taxpayer.

4           To the extent provided in regulations, subparagraph  
5           (B) shall not apply to any security held by a person  
6           in its capacity as a dealer in securities.

7           “(2) IDENTIFICATION REQUIRED.—A security  
8           shall not be treated as described in subparagraph  
9           (A) or (B) of paragraph (1), as the case may be, un-  
10          less such security is clearly identified in the dealer’s  
11          records as being described in such subparagraph be-  
12          fore the close of the day on which it was acquired,  
13          originated, or entered into (or such other time as the  
14          Secretary may by regulations prescribe).

15          “(3) SECURITIES SUBSEQUENTLY NOT EX-  
16          EMPT.—If a security ceases to be described in para-  
17          graph (1) at any time after it was identified as such  
18          under paragraph (2), subsection (a) shall apply to  
19          any changes in value of the security occurring after  
20          the cessation.

21          “(4) SPECIAL RULE FOR PROPERTY HELD FOR  
22          INVESTMENT.—To the extent provided in regula-  
23          tions, subparagraph (A) of paragraph (1) shall not  
24          apply to any security described in subparagraph (D)

1 or (E) of subsection (c)(2) which is held by a dealer  
2 in such securities.

3 “(c) DEFINITIONS.—For purposes of this section—

4 “(1) DEALER IN SECURITIES DEFINED.—The  
5 term ‘dealer in securities’ means a taxpayer who—

6 “(A) regularly purchases securities from or  
7 sells securities to customers in the ordinary  
8 course of a trade or business; or

9 “(B) regularly offers to enter into, assume,  
10 offset, assign or otherwise terminate positions  
11 in securities with customers in the ordinary  
12 course of a trade or business.

13 “(2) SECURITY DEFINED.—The term ‘security’  
14 means any—

15 “(A) share of stock in a corporation;

16 “(B) partnership or beneficial ownership  
17 interest in a widely held or publicly traded part-  
18 nership or trust;

19 “(C) note, bond, debenture, or other evi-  
20 dence of indebtedness;

21 “(D) interest rate, currency, or equity no-  
22 tional principal contract;

23 “(E) evidence of an interest in, or a deriv-  
24 ative financial instrument in, any security de-  
25 scribed in subparagraph (A), (B), (C), or (D),

1 or any currency, including any option, forward  
2 contract, short position, and any similar finan-  
3 cial instrument in such a security or currency;  
4 and

5 “(F) position which—

6 “(i) is not a security described in sub-  
7 paragraph (A), (B), (C), (D), or (E),

8 “(ii) is a hedge with respect to such  
9 a security, and

10 “(iii) is clearly identified in the deal-  
11 er’s records as being described in this sub-  
12 paragraph before the close of the day on  
13 which it was acquired or entered into (or  
14 such other time as the Secretary may by  
15 regulations prescribe).

16 Subparagraph (E) shall not include any contract to  
17 which section 1256(a) applies.

18 “(3) HEDGE.—The term ‘hedge’ means any po-  
19 sition which reduces the dealer’s risk of interest rate  
20 or price changes or currency fluctuations, including  
21 any position which is reasonably expected to become  
22 a hedge within 60 days after the acquisition of the  
23 position.

24 “(d) SPECIAL RULES.—For purposes of this sec-  
25 tion—

1           “(1) COORDINATION WITH CERTAIN RULES.—  
2           The rules of sections 263(g), 263A, and 1256(a)  
3           shall not apply to securities to which subsection (a)  
4           applies, and section 1091 shall not apply (and sec-  
5           tion 1092 shall apply) to any loss recognized under  
6           subsection (a).

7           “(2) IMPROPER IDENTIFICATION.—If a tax-  
8           payer—

9                   “(A) identifies any security under sub-  
10                   section (b)(2) as being described in subsection  
11                   (b)(1) and such security is not so described, or

12                   “(B) fails under subsection (c)(2)(F)(iii) to  
13                   identify any position which is described in sub-  
14                   section (c)(2)(F) (without regard to clause (iii)  
15                   thereof) at the time such identification is re-  
16                   quired,

17           the provisions of subsection (a) shall apply to such  
18           security or position, except that any loss under this  
19           section prior to the disposition of the security or po-  
20           sition shall be recognized only to the extent of gain  
21           previously recognized under this section (and not  
22           previously taken into account under this paragraph)  
23           with respect to such security or position.

24           “(3) CHARACTER OF GAIN OR LOSS.—

1           “(A) IN GENERAL.—Except as provided in  
2           subparagraph (B) or section 1236(b)—

3           “(i) IN GENERAL.—Any gain or loss  
4           with respect to a security under subsection  
5           (a)(2) shall be treated as ordinary income  
6           or loss.

7           “(ii) SPECIAL RULE FOR DISPOSI-  
8           TIONS.—If—

9           “(I) gain or loss is recognized  
10           with respect to a security before the  
11           close of the taxable year, and

12           “(II) subsection (a)(2) would  
13           have applied if the security were held  
14           as of the close of the taxable year,  
15           such gain or loss shall be treated as ordi-  
16           nary income or loss.

17           “(B) EXCEPTION.—Subparagraph (A)  
18           shall not apply to any gain or loss which is allo-  
19           cable to a period during which—

20           “(i) the security is described in sub-  
21           section (b)(1)(B) (without regard to sub-  
22           section (b)(2)),

23           “(ii) the security is held by a person  
24           other than in connection with its activities  
25           as a dealer in securities, or



1 (c) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by  
3 this section shall apply to all taxable years ending on  
4 or after December 31, 1993.

5 (2) CHANGE IN METHOD OF ACCOUNTING.—In  
6 the case of any taxpayer required by this section to  
7 change its method of accounting for any taxable  
8 year—

9 (A) such change shall be treated as initi-  
10 ated by the taxpayer,

11 (B) such change shall be treated as made  
12 with the consent of the Secretary, and

13 (C) except as provided in paragraph (3),  
14 the net amount of the adjustments required to  
15 be taken into account by the taxpayer under  
16 section 481 of the Internal Revenue Code of  
17 1986 shall be taken into account ratably over  
18 the 5-taxable year period beginning with the  
19 first taxable year ending on or after December  
20 31, 1993.

21 (3) SPECIAL RULE FOR FLOOR SPECIALISTS  
22 AND MARKET MAKERS.—

23 (A) IN GENERAL.—If—

24 (i) a taxpayer (or any predecessor)  
25 used the last-in first-out (LIFO) method of

1 accounting with respect to any qualified se-  
2 curities for the 5-taxable year period end-  
3 ing with its last taxable year ending before  
4 December 31, 1993, and

5 (ii) any portion of the net amount de-  
6 scribed in paragraph (2)(C) is attributable  
7 to the use of such method of accounting,

8 then paragraph (2)(C) shall be applied by tak-  
9 ing such portion into account ratably over the  
10 15-taxable year period beginning with the first  
11 taxable year ending on or after December 31,  
12 1993.

13 (B) QUALIFIED SECURITY.—For purposes  
14 of this paragraph, the term “qualified security”  
15 means any security acquired—

16 (i) by a floor specialist (as defined in  
17 section 1236(d)(2) of the Internal Revenue  
18 Code of 1986) in connection with the spe-  
19 cialist’s duties as a specialist on an ex-  
20 change, but only if the security is one in  
21 which the specialist is registered with the  
22 exchange, or

23 (ii) by a taxpayer who is a market  
24 maker in connection with the taxpayer’s  
25 duties as a market maker, but only if—

1 (I) the security is included on the  
2 National Association of Security Deal-  
3 ers Automated Quotation System,

4 (II) the taxpayer is registered as  
5 a market maker in such security with  
6 the National Association of Security  
7 Dealers, and

8 (III) as of the last day of the  
9 taxable year preceding the taxpayer's  
10 first taxable year ending on or after  
11 December 31, 1993, the taxpayer (or  
12 any predecessor) has been actively  
13 and regularly engaged as a market  
14 maker in such security for the 2-year  
15 period ending on such date (or, if  
16 shorter, the period beginning 61 days  
17 after the security was listed in such  
18 quotation system and ending on such  
19 date).

20 **SEC. 8224. CLARIFICATION OF TREATMENT OF CERTAIN**  
21 **FSLIC FINANCIAL ASSISTANCE.**

22 (a) GENERAL RULE.—For purposes of chapter 1 of  
23 the Internal Revenue Code of 1986—

24 (1) any FSLIC assistance with respect to any  
25 loss of principal, capital, or similar amount upon the

1 disposition of any asset shall be taken into account  
2 as compensation for such loss for purposes of section  
3 165 of such Code, and

4 (2) any FSLIC assistance with respect to any  
5 debt shall be taken into account for purposes of sec-  
6 tion 166, 585, or 593 of such Code in determining  
7 whether such debt is worthless (or the extent to  
8 which such debt is worthless) and in determining the  
9 amount of any addition to a reserve for bad debts  
10 arising from the worthlessness or partial worthless-  
11 ness of such debts.

12 (b) FSLIC ASSISTANCE.—For purposes of this sec-  
13 tion, the term “FSLIC assistance” means any assistance  
14 (or right to assistance) with respect to a domestic building  
15 and loan association (as defined in section 7701(a)(19) of  
16 such Code without regard to subparagraph (C) thereof)  
17 under section 406(f) of the National Housing Act or sec-  
18 tion 21A of the Federal Home Loan Bank Act (or under  
19 any similar provision of law).

20 (c) EFFECTIVE DATE.—

21 (1) IN GENERAL.—Except as otherwise pro-  
22 vided in this subsection—

23 (A) The provisions of this section shall  
24 apply to taxable years ending on or after March

1           4, 1991, but only with respect to FSLIC assist-  
2           ance not credited before March 4, 1991.

3           (B) If any FSLIC assistance not credited  
4           before March 4, 1991, is with respect to a loss  
5           sustained or charge-off in a taxable year ending  
6           before March 4, 1991, for purposes of deter-  
7           mining the amount of any net operating loss  
8           carryover to a taxable year ending on or after  
9           March 4, 1991, the provisions of this section  
10          shall apply to such assistance for purposes of  
11          determining the amount of the net operating  
12          loss for the taxable year in which such loss was  
13          sustained or debt written off. Except as pro-  
14          vided in the preceding sentence, this section  
15          shall not apply to any FSLIC assistance with  
16          respect to a loss sustained or charge-off in a  
17          taxable year ending before March 4, 1991.

18          (2) EXCEPTIONS.—The provisions of this sec-  
19          tion shall not apply to any assistance to which the  
20          amendments made by section 1401(a)(3) of the Fi-  
21          nancial Institutions Reform, Recovery, and Enforce-  
22          ment Act of 1989 apply.

1 **SEC. 8225. MODIFICATION OF CORPORATE ESTIMATED TAX**

2 **RULES.**

3 (a) INCREASE IN REQUIRED INSTALLMENT BASED  
4 ON CURRENT YEAR TAX.—

5 (1) IN GENERAL.—Clause (i) of section  
6 6655(d)(1)(B) (relating to amount of required in-  
7 stallment) is amended by striking “91 percent” each  
8 place it appears and inserting “100 percent”.

9 (2) CONFORMING AMENDMENTS.—

10 (A) Subsection (d) of section 6655 is  
11 amended—

12 (i) by striking paragraph (3), and

13 (ii) by striking “91 PERCENT” in the  
14 paragraph heading of paragraph (2) and  
15 inserting “100 PERCENT”.

16 (B) Clause (ii) of section 6655(e)(2)(B) is  
17 amended by striking the table contained therein  
18 and inserting the following:

<b>“In the case of the following re- quired installments:</b>	<b>The applicable percentage is:</b>
1st .....	25
2nd .....	50
3rd .....	75
4th .....	100.”

19 (C) Clause (i) of section 6655(e)(3)(A) is  
20 amended by striking “91 percent” and inserting  
21 “100 percent”.

1 (b) MODIFICATION OF PERIODS FOR APPLYING  
2 ANNUALIZATION.—

3 (1) Clause (i) of section 6655(e)(2)(A) is  
4 amended—

5 (A) by striking “or for the first 5 months”  
6 in subclause (II),

7 (B) by striking “or for the first 8 months”  
8 in subclause (III), and

9 (C) by striking “or for the first 11  
10 months” in subclause (IV).

11 (2) Paragraph (2) of section 6655(e) is amend-  
12 ed by adding at the end thereof the following new  
13 subparagraph:

14 “(C) ELECTION FOR DIFFERENT  
15 ANNUALIZATION PERIODS.—

16 “(i) If the taxpayer makes an election  
17 under this clause—

18 “(I) subclause (I) of subpara-  
19 graph (A)(i) shall be applied by sub-  
20 stituting ‘2 months’ for ‘3 months’,

21 “(II) subclause (II) of subpara-  
22 graph (A)(i) shall be applied by sub-  
23 stituting ‘4 months’ for ‘3 months’,

24 “(III) subclause (III) of subpara-  
25 graph (A)(i) shall be applied by sub-

1           stituting ‘7 months’ for ‘6 months’,  
2           and

3                   “(IV) subclause (IV) of subpara-  
4                   graph (A)(i) shall be applied by sub-  
5                   stituting ‘10 months’ for ‘9 months’.

6                   “(ii) If the taxpayer makes an election  
7           under this clause—

8                           “(I) subclause (II) of subpara-  
9                           graph (A)(i) shall be applied by sub-  
10                          stituting ‘5 months’ for ‘3 months’,

11                           “(II) subclause (III) of subpara-  
12                           graph (A)(i) shall be applied by sub-  
13                          stituting ‘8 months’ for ‘6 months’,  
14                          and

15                           “(III) subclause (IV) of subpara-  
16                           graph (A)(i) shall be applied by sub-  
17                          stituting ‘11 months’ for ‘9 months’.

18                           “(iii) An election under clause (i) or  
19                          (ii) shall apply to the taxable year for  
20                          which made and such an election shall be  
21                          effective only if made on or before the date  
22                          required for the payment of the first re-  
23                          quired installment for such taxable year.”

24                          (3) The last sentence of section 6655(g)(3) is  
25           amended by striking “and subsection (e)(2)(A)” and

1 inserting “and, except in the case of an election  
2 under subsection (e)(2)(C), subsection (e)(2)(A)”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to taxable years beginning after  
5 December 31, 1993.

6 **SEC. 8226. MODIFICATIONS OF DISCHARGE OF INDEBTED-**  
7 **NESS PROVISIONS.**

8 (a) REPEAL OF STOCK FOR DEBT EXCEPTION IN  
9 DETERMINING INCOME FROM DISCHARGE OF INDEBTED-  
10 NESS.—

11 (1) IN GENERAL.—Subsection (e) of section  
12 108 is amended—

13 (A) by striking paragraph (10) and by re-  
14 designating paragraph (11) as paragraph (10),  
15 and

16 (B) by amending paragraph (8) to read as  
17 follows:

18 “(8) INDEBTEDNESS SATISFIED BY CORPORA-  
19 TION’S STOCK.—For purposes of determining income  
20 of a debtor from discharge of indebtedness, if a  
21 debtor corporation transfers stock to a creditor in  
22 satisfaction of its indebtedness, such corporation  
23 shall be treated as having satisfied the indebtedness  
24 with an amount of money equal to the fair market  
25 value of the stock.”

1           (2) CONFORMING AMENDMENT.—Subparagraph  
2           (C) of section 382(l)(5) is amended to read as fol-  
3           lows:

4                   “(C) COORDINATION WITH SECTION 108.—  
5           In applying section 108(e)(8) to any case to  
6           which subparagraph (A) applies, there shall not  
7           be taken into account any indebtedness for in-  
8           terest described in subparagraph (B).”

9           (3) EFFECTIVE DATE.—

10                   (A) IN GENERAL.—Except as otherwise  
11           provided in this paragraph, the amendments  
12           made by this subsection shall apply to stock  
13           transferred after June 17, 1993, in satisfaction  
14           of any indebtedness.

15                   (B) EXCEPTION FOR TITLE 11 CASES.—  
16           The amendments made by this subsection shall  
17           not apply to stock transferred in satisfaction of  
18           any indebtedness if such transfer is in a title 11  
19           or similar case (as defined in section  
20           368(a)(3)(A) of the Internal Revenue Code of  
21           1986) which was filed on or before June 17,  
22           1993.

23                   (C) EXCEPTION FOR BINDING CON-  
24           TRACTS.—The amendments made by this sec-  
25           tion shall not apply to any stock transferred

1 after June 17, 1993, and before January 1,  
2 1994, if such transfer is pursuant to a binding  
3 contract in effect on June 17, 1993, and at all  
4 times thereafter before the transfer.

5 (D) EXCEPTION FOR CERTAIN FILINGS.—

6 The amendments made by this section shall not  
7 apply to any stock transferred in satisfaction of  
8 any indebtedness if—

9 (i) such transfer occurs after June 17,  
10 1993, and before January 1, 1994, and

11 (ii) the taxpayer had filed with the Se-  
12 curities and Exchange Commission on or  
13 before June 17, 1993, a registration state-  
14 ment which proposed a stock-for-debt ex-  
15 change with respect to such indebtedness,  
16 and which discussed the possible applica-  
17 tion of the stock-for-debt exception to such  
18 exchange.

19 (b) TAX ATTRIBUTES SUBJECT TO REDUCTION.—

20 (1) MINIMUM TAX CREDIT.—Section 108(b)(2)  
21 (relating to tax attributes affected; order of reduc-  
22 tion) is amended by redesignating subparagraphs  
23 (C), (D), and (E) as subparagraphs (D), (E), and  
24 (F) and by adding after subparagraph (B) the fol-  
25 lowing new subparagraph:

1           “(C) MINIMUM TAX CREDIT.—The amount  
2           of the minimum tax credit available under sec-  
3           tion 53(b) as of the beginning of the taxable  
4           year immediately following the taxable year of  
5           the discharge.”

6           (2) PASSIVE ACTIVITY LOSSES AND CREDITS.—  
7           Section 108(b)(2), as amended by paragraph (1), is  
8           amended by redesignating subparagraph (F) as sub-  
9           paragraph (G) and by adding after subparagraph  
10          (E) the following new subparagraph:

11           “(F) PASSIVE ACTIVITY LOSS AND CREDIT  
12          CARRYOVERS.—Any passive activity loss or  
13          credit carryover of the taxpayer under section  
14          469(b) from the taxable year of the discharge.”

15          (3) CONFORMING AMENDMENTS.—

16           (A) Subparagraph (B) of section 108(b)(3)  
17          is amended to read as follows:

18           “(B) CREDIT CARRYOVER REDUCTION.—  
19          The reductions described in subparagraphs (B),  
20          (C), and (G) shall be 33 $\frac{1}{3}$  cents for each dollar  
21          excluded by subsection (a). The reduction de-  
22          scribed in subparagraph (F) in any passive ac-  
23          tivity credit carryover shall be 33 $\frac{1}{3}$  cents for  
24          each dollar excluded by subsection (a).”

1 (B) Subparagraph (B) of section 108(b)(4)  
2 is amended by striking “(C)” in the text and  
3 heading thereof and inserting “(D)”.

4 (C) Subparagraph (C) of section 108(b)(4)  
5 is amended by striking “(E)” in the text and  
6 heading thereof and inserting “(G)”.

7 (D) Subparagraph (B) of section 108(g)(3)  
8 is amended—

9 (i) by striking “subparagraphs (A),  
10 (B), (C), and (E)” and inserting “subpara-  
11 graphs (A), (B), (C), (D), (F), and (G)”,

12 (ii) by striking “subparagraphs (B)  
13 and (E)” and inserting “subparagraphs  
14 (B), (C), and (G)”, and

15 (iii) by inserting before the period at  
16 the end the following: “and the attribute  
17 described in subparagraph (F) of sub-  
18 section (b)(2) to the extent attributable to  
19 any passive activity credit carryover”.

20 (4) EFFECTIVE DATE.—The amendments made  
21 by this section shall apply to taxable years beginning  
22 after December 31, 1993.

1 **SEC. 8227. LIMITATION ON SECTION 936 CREDIT.**

2 (a) GENERAL RULE.—Subsection (a) of section 936  
3 (relating to Puerto Rico and possession tax credit) is  
4 amended—

5 (1) by striking “as provided in paragraph (3)”  
6 in paragraph (1) and inserting “as otherwise pro-  
7 vided in this section”;

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

10 “(4) LIMITATIONS ON CREDIT FOR ACTIVE  
11 BUSINESS INCOME.—

12 “(A) IN GENERAL.—The amount of the  
13 credit determined under paragraph (1)(A) for  
14 any taxable year shall not exceed the sum of the  
15 following amounts:

16 “(i) 95 percent of the sum of—

17 “(I) the aggregate amount of the  
18 possession corporation’s qualified pos-  
19 session wages for such taxable year,  
20 plus

21 “(II) the allocable employee  
22 fringe benefit expenses of the posses-  
23 sion corporation for the taxable year.

24 “(ii) The sum of—

25 “(I) 50 percent of the deprecia-  
26 tion deductions allowable under sec-

1           tion 167 to the possession corporation  
2           for the taxable year with respect to  
3           short-life qualified tangible property,

4           “(II) 75 percent of the deprecia-  
5           tion deductions allowable under sec-  
6           tion 167 to the possession corporation  
7           for the taxable year with respect to  
8           medium-life qualified tangible prop-  
9           erty, and

10          “(III) 100 percent of the depre-  
11          ciation deductions allowable under  
12          section 167 to the possession corpora-  
13          tion for the taxable year with respect  
14          to long-life qualified tangible property.

15          “(iii) If the possession corporation  
16          does not have an election to use the meth-  
17          od described in subsection (h)(5)(C)(ii) (re-  
18          lating to profit split) in effect for the tax-  
19          able year, the amount of qualified posses-  
20          sion income taxes for the taxable year allo-  
21          cable to nonsheltered income.

22          “(B) ELECTION TO TAKE REDUCED CRED-

23           IT.—

1           “(i) IN GENERAL.—If an election  
2           under this subparagraph applies to a pos-  
3           session corporation for any taxable year—

4                   “(I) subparagraph (A), and the  
5                   provisions of subsection (i), shall not  
6                   apply to such possession corporation  
7                   for such taxable year, and

8                           “(II) the credit determined under  
9                           paragraph (1)(A) for such taxable  
10                          year shall be the applicable percentage  
11                          of the credit which would otherwise  
12                          have been determined under such  
13                          paragraph.

14           Notwithstanding subclause (I), a posses-  
15           sion corporation to which an election under  
16           this subparagraph applies shall be entitled  
17           to the benefits of subsection (i)(3)(B) for  
18           taxes allocable (on a pro rata basis) to tax-  
19           able income the tax on which is not offset  
20           by reason of this subparagraph.

21                   “(ii) APPLICABLE PERCENTAGE.—The  
22                   term ‘applicable percentage’ means the  
23                   percentage determined in accordance with  
24                   the following table:

<b>“In the case of taxable year beginning in:</b>	<b>The percentage is:</b>
1994 .....	60

<b>“In the case of taxable year beginning in:</b>	<b>The percentage is:</b>
1995 .....	55
1996 .....	50
1997 .....	45
1998 and thereafter .....	40.

1                                   “(iii) ELECTION.—

2   “(I) IN GENERAL.—An election  
3   under this subparagraph by any pos-  
4   session corporation may be made only  
5   for the corporation’s first taxable year  
6   beginning after December 31, 1993,  
7   for which it is a possession corpora-  
8   tion.

9   “(II) PERIOD OF ELECTION.—An  
10   election under this subparagraph shall  
11   apply to the taxable year for which  
12   made and all subsequent taxable years  
13   unless revoked.

14   “(III) AFFILIATED GROUPS.—If,  
15   for any taxable year, an election is not  
16   in effect for any possession corpora-  
17   tion which is a member of an affili-  
18   ated group, any election under this  
19   subparagraph for any other member  
20   of such group is revoked for such tax-  
21   able year and all subsequent taxable  
22   years. For purposes of this subclause,

1 members of an affiliated group shall  
2 be determined without regard to the  
3 exceptions contained in section  
4 1504(b) and as if the constructive  
5 ownership rules of section 1563(e) ap-  
6 plied for purposes of section 1504(a).  
7 The Secretary may prescribe regula-  
8 tions to prevent the avoidance of this  
9 subclause through deconsolidation or  
10 otherwise.

11 “(C) CROSS REFERENCE.—

**“For definitions and special rules applicable to  
this paragraph, see subsection (i).”**

12 (b) DEFINITIONS AND SPECIAL RULES.—Section 936  
13 is amended by adding at the end thereof the following new  
14 subsection:

15 “(i) DEFINITIONS AND SPECIAL RULES RELATING  
16 TO LIMITATIONS OF SUBSECTION (a)(4).—

17 “(1) QUALIFIED POSSESSION WAGES.—For  
18 purposes of this section—

19 “(A) IN GENERAL.—The term ‘qualified  
20 possession wages’ means wages paid or incurred  
21 by the possession corporation during the tax-  
22 able year in connection with the active conduct  
23 of a trade or business within a possession of the  
24 United States to any employee for services per-

1           formed in such possession, but only if such  
2           services are performed while the principal place  
3           of employment of such employee is within such  
4           possession.

5           “(B) LIMITATION ON AMOUNT OF WAGES  
6           TAKEN INTO ACCOUNT.—

7           “(i) IN GENERAL.—The amount of  
8           wages which may be taken into account  
9           under subparagraph (A) with respect to  
10          any employee for any taxable year shall  
11          not exceed 85 percent of the contribution  
12          and benefit base determined under section  
13          230 of the Social Security Act for the cal-  
14          endar year in which such taxable year be-  
15          gins.

16          “(ii) TREATMENT OF PART-TIME EM-  
17          PLOYEES, ETC.—If—

18                 “(I) any employee is not em-  
19                 ployed by the possession corporation  
20                 on a substantially full-time basis at all  
21                 times during the taxable year, or

22                 “(II) the principal place of em-  
23                 ployment of any employee with the  
24                 possession corporation is not within a

1                   possession at all times during the tax-  
2                   able year,  
3                   the limitation applicable under clause (i)  
4                   with respect to such employee shall be the  
5                   appropriate portion (as determined by the  
6                   Secretary) of the limitation which would  
7                   otherwise be in effect under clause (i).

8                   “(C) TREATMENT OF CERTAIN EMPLOY-  
9                   EES.—The term ‘qualified possession wages’  
10                  shall not include any wages paid to employees  
11                  who are assigned by the employer to perform  
12                  services for another person, unless the principal  
13                  trade or business of the employer is to make  
14                  employees available for temporary periods to  
15                  other persons in return for compensation. All  
16                  possession corporations treated as 1 corporation  
17                  under paragraph (6) shall be treated as 1 em-  
18                  ployer for purposes of the preceding sentence.

19                  “(D) WAGES.—

20                  “(i) IN GENERAL.—Except as pro-  
21                  vided in clause (ii), the term ‘wages’ has  
22                  the meaning given to such term by sub-  
23                  section (b) of section 3306 (determined  
24                  without regard to any dollar limitation  
25                  contained in such section). For purposes of

1 the preceding sentence, such subsection (b)  
2 shall be applied as if the term ‘United  
3 States’ included all possessions of the  
4 United States.

5 “(ii) SPECIAL RULE FOR AGRICUL-  
6 TURAL LABOR AND RAILWAY LABOR.—In  
7 any case to which subparagraph (A) or (B)  
8 of paragraph (1) of section 51(h) applies,  
9 the term ‘wages’ has the meaning given to  
10 such term by section 51(h)(2).

11 “(2) ALLOCABLE EMPLOYEE FRINGE BENEFIT  
12 EXPENSES.—

13 “(A) IN GENERAL.—The allocable em-  
14 ployee fringe benefit expenses of any possession  
15 corporation for any taxable year is an amount  
16 which bears the same ratio to the amount de-  
17 termined under subparagraph (B) for such tax-  
18 able year as—

19 “(i) the aggregate amount of the pos-  
20 session corporation’s qualified possession  
21 wages for such taxable year, bears to

22 “(ii) the aggregate amount of the  
23 wages paid or incurred by such possession  
24 corporation during such taxable year.

1 In no event shall the amount determined under  
2 the preceding sentence exceed 15 percent of the  
3 amount referred to in clause (i).

4 “(B) EXPENSES TAKEN INTO ACCOUNT.—  
5 For purposes of subparagraph (A), the amount  
6 determined under this subparagraph for any  
7 taxable year is the aggregate amount allowable  
8 as a deduction under this chapter to the posses-  
9 sion corporation for such taxable year (deter-  
10 mined without regard to paragraph (5)) with  
11 respect to—

12 “(i) employer contributions under a  
13 stock bonus, pension, profit-sharing, or an-  
14 nuity plan,

15 “(ii) employer-provided coverage  
16 under any accident or health plan for em-  
17 ployees, and

18 “(iii) the cost of life or disability in-  
19 surance provided to employees.

20 Any amount treated as wages under paragraph  
21 (1)(D) shall not be taken into account under  
22 this subparagraph.

23 “(3) TREATMENT OF POSSESSION TAXES.—

24 “(A) AMOUNT OF CREDIT FOR POSSESSION  
25 CORPORATIONS NOT USING PROFIT SPLIT.—

1           “(i) IN GENERAL.—For purposes of  
2 subsection (a)(4)(A)(iii), the amount of the  
3 qualified possession income taxes for any  
4 taxable year allocable to nonsheltered in-  
5 come shall be an amount which bears the  
6 same ratio to the possession income taxes  
7 for such taxable year as—

8                   “(I) the increase in the tax liabil-  
9 ity of the possession corporation  
10 under this chapter by reason of sub-  
11 section (a)(4)(A) (without regard to  
12 clause (iii) thereof) and paragraph (5)  
13 of this subsection, bears to

14                   “(II) the tax liability of the pos-  
15 session corporation for the taxable  
16 year determined without regard to the  
17 credit allowable under this section and  
18 without regard to paragraph (5) of  
19 this subsection.

20           “(ii) LIMITATION ON AMOUNT OF  
21 TAXES TAKEN INTO ACCOUNT.—Possession  
22 income taxes shall not be taken into ac-  
23 count under clause (i) for any taxable year  
24 to the extent that the amount of such

1           taxes exceeds 9 percent of the amount of  
2           the taxable income for such taxable year.

3           “(B) DEDUCTION FOR POSSESSION COR-  
4           PORATIONS USING PROFIT SPLIT.—Notwith-  
5           standing subsection (c) if a possession corpora-  
6           tion is not described in subsection (a)(4)(A)(iii)  
7           for any taxable year, such possession corpora-  
8           tion shall be allowed a deduction for such tax-  
9           able year in an amount which bears the same  
10          ratio to the possession income taxes for such  
11          taxable year as—

12                   “(i) the increase in the tax liability of  
13                   the possession corporation under this chap-  
14                   ter by reason of subsection (a)(4)(A) and  
15                   paragraph (5) of this subsection, bears to

16                           “(ii) the tax liability of the possession  
17                           corporation for the taxable year deter-  
18                           mined without regard to the credit allow-  
19                           able under this section and without regard  
20                           to paragraph (5) of this subsection.

21          In determining the credit under subsection (a)  
22          and in applying the preceding sentence, taxable  
23          income shall be determined without regard to  
24          the preceding sentence.

1           “(C) POSSESSION INCOME TAXES.—For  
2 purposes of this paragraph, the term ‘possession  
3 income taxes’ means any taxes of a possession  
4 of the United States which are treated as  
5 not being income, war profits, or excess profits  
6 taxes paid or accrued to a possession of the  
7 United States by reason of subsection (c).

8           “(4) CATEGORIES OF DEPRECIABLE PROP-  
9 erty.—For purposes of this section—

10           “(A) QUALIFIED TANGIBLE PROPERTY.—  
11 The term ‘qualified tangible property’ means  
12 any tangible property used by the possession  
13 corporation in a possession of the United States  
14 in the active conduct of a trade or business  
15 within such possession.

16           “(B) SHORT-LIFE QUALIFIED TANGIBLE  
17 PROPERTY.—The term ‘short-life qualified tan-  
18 gible property’ means any qualified tangible  
19 property to which section 168 applies and which  
20 is 3-year property or 5-year property for pur-  
21 poses of such section.

22           “(C) MEDIUM-LIFE QUALIFIED TANGIBLE  
23 PROPERTY.—The term ‘medium-life qualified  
24 tangible property’ means any qualified tangible  
25 property to which section 168 applies and which

1 is 7-year property or 10-year property for pur-  
2 poses of such section.

3 “(D) LONG-LIFE QUALIFIED TANGIBLE  
4 PROPERTY.—The term ‘long-life qualified tan-  
5 gible property’ means any qualified tangible  
6 property to which section 168 applies and which  
7 is not described in subparagraph (B) or (C).

8 “(E) TRANSITIONAL RULE.—In the case of  
9 any qualified tangible property to which section  
10 168 (as in effect on the day before the date of  
11 the enactment of the Tax Reform Act of 1986)  
12 applies, any reference in this paragraph to sec-  
13 tion 168 shall be treated as a reference to such  
14 section as so in effect.

15 “(5) DENIAL OF DOUBLE BENEFIT.—

16 “(A) IN GENERAL.—Notwithstanding any  
17 other provision of this chapter, no deduction  
18 shall be allowed to a possession corporation  
19 for—

20 “(i) any qualified possession wages,

21 “(ii) any allocable employee fringe  
22 benefit expenses, and

23 “(iii) any depreciation deductions re-  
24 ferred to in subsection (a)(4)(A)(ii).

1           “(B) COORDINATION WITH OTHER PROVI-  
2           SIONS.—Subparagraph (A) shall not apply for  
3           purposes of—

4                   “(i) determining the amount of the  
5                   credit allowable under subsection (a)(1)(A)  
6                   or otherwise determining the taxable in-  
7                   come of the possession corporation under  
8                   any other provision of this section, and

9                   “(ii) determining adjustments to the  
10                  basis of any property on account of depre-  
11                  ciation deductions.

12           “(6) ELECTION TO COMPUTE CREDIT ON CON-  
13           SOLIDATED BASIS.—

14                   “(A) IN GENERAL.—Any affiliated group  
15                   may elect to treat all possession corporations  
16                   which would be members of such group but for  
17                   section 1504(b) (3) or (4) as 1 corporation for  
18                   purposes of this section. The credit determined  
19                   under this section with respect to such 1 cor-  
20                   poration shall be allocated among such posses-  
21                   sion corporations in such manner as the Sec-  
22                   retary may prescribe.

23                   “(B) ELECTION.—An election under sub-  
24                   paragraph (A) shall apply to the taxable year  
25                   for which made and all succeeding taxable years



1                   “(V) COORDINATION WITH LIM-  
2                   TATION ON 936 CREDIT.—Any ref-  
3                   erence in this clause to a dividend re-  
4                   ceived from a corporation eligible for  
5                   the credit provided by section 936  
6                   shall be treated as a reference to the  
7                   portion of any such dividend for which  
8                   the dividends received deduction is  
9                   disallowed under clause (i) after the  
10                  application of clause (ii)(I).”

11           (d) CONFORMING AMENDMENT.—Paragraph (4) of  
12 section 904(b) is amended by inserting before the period  
13 at the end thereof the following: “(without regard to sub-  
14 sections (a)(4) and (i) thereof)”.

15           (e) INCREASE IN LIMITATION ON COVER OVER.—  
16 Paragraph (1) of section 7652(f) is amended to read as  
17 follows:

18                   “(1) \$10.50 (\$11.30 in the case of distilled  
19                   spirits brought into the United States during the 5-  
20                   year period beginning on October 1, 1993), or.”

21           (f) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to taxable years beginning after  
23 December 31, 1993; except that the amendment made by  
24 subsection (e) shall take effect on October 1, 1993.

1 **SEC. 8228. MODIFICATION TO LIMITATION ON DEDUCTION**  
2 **FOR CERTAIN INTEREST.**

3 (a) GENERAL RULE.—Paragraph (3) of section  
4 163(j) (defining disqualified interest) is amended to read  
5 as follows:

6 “(3) DISQUALIFIED INTEREST.—For purposes  
7 of this subsection, the term ‘disqualified interest’  
8 means—

9 “(A) any interest paid or accrued by the  
10 taxpayer (directly or indirectly) to a related  
11 person if no tax is imposed by this subtitle with  
12 respect to such interest, and

13 “(B) any interest paid or accrued by the  
14 taxpayer with respect to any indebtedness to a  
15 person who is not a related person if—

16 “(i) there is a disqualified guarantee  
17 of such indebtedness, and

18 “(ii) no gross basis tax is imposed by  
19 this subtitle with respect to such interest.”

20 (b) DEFINITIONS.—Paragraph (6) of section 163(j)  
21 is amended by adding at the end thereof the following new  
22 subparagraphs:

23 “(D) DISQUALIFIED GUARANTEE.—

24 “(i) IN GENERAL.—Except as pro-  
25 vided in clause (ii), the term ‘disqualified

1 guarantee' means any guarantee by a re-  
2 lated person which is—

3 “(I) an organization exempt from  
4 taxation under this subtitle, or

5 “(II) a foreign person.

6 “(ii) EXCEPTIONS.—The term ‘dis-  
7 qualified guarantee’ shall not include a  
8 guarantee—

9 “(I) in any circumstances identi-  
10 fied by the Secretary by regulation,  
11 where the interest on the indebtedness  
12 would have been subject to a net basis  
13 tax if the interest had been paid to  
14 the guarantor, or

15 “(II) if the taxpayer owns a con-  
16 trolling interest in the guarantor.

17 For purposes of subclause (II), except as  
18 provided in regulations, the term ‘a con-  
19 trolling interest’ means direct or indirect  
20 ownership of at least 80 percent of the  
21 total voting power and value of all classes  
22 of stock of a corporation, or 80 percent of  
23 the profit and capital interests in any other  
24 entity. For purposes of the preceding sen-  
25 tence, the rules of paragraphs (1) and (5)

1 of section 267(c) shall apply; except that  
2 such rules shall also apply to interest in  
3 entities other than corporations.

4 “(iii) GUARANTEE.—Except as pro-  
5 vided in regulations, the term ‘guarantee’  
6 includes any arrangement under which a  
7 person (directly or indirectly through an  
8 entity or otherwise) assures, on a condi-  
9 tional or unconditional basis, the payment  
10 of another person’s obligation under any  
11 indebtedness.

12 “(E) GROSS BASIS AND NET BASIS  
13 TAXATION.—

14 “(i) GROSS BASIS TAX.—The term  
15 ‘gross basis tax’ means any tax imposed by  
16 this subtitle which is determined by ref-  
17 erence to the gross amount of any item of  
18 income without any reduction for any de-  
19 duction allowed by this subtitle.

20 “(ii) NET BASIS TAX.—The term ‘net  
21 basis tax’ means any tax imposed by this  
22 subtitle which is a not a gross basis tax.”

23 (c) CONFORMING AMENDMENT.—Subparagraph (B)  
24 of section 163(j)(5) is amended by striking “to a related  
25 person”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to interest paid or accrued in tax-  
3 able years beginning after December 31, 1993.

4 **PART III—FOREIGN TAX PROVISIONS**

5 **Subpart A—Current Taxation of Certain Earnings of**  
6 **Controlled Foreign Corporations**

7 **SEC. 8231. EARNINGS INVESTED IN EXCESS PASSIVE AS-**  
8 **SETS.**

9 (a) GENERAL RULE.—Paragraph (1) of section  
10 951(a) (relating to amounts included in gross income of  
11 United States shareholders) is amended by striking “and”  
12 at the end of subparagraph (A), by striking the period  
13 at the end of subparagraph (B) and inserting “; and”,  
14 and by adding at the end thereof the following new sub-  
15 paragraph:

16 “(C) the amount determined under section  
17 956A with respect to such shareholder for such  
18 year (but only to the extent not excluded from  
19 gross income under section 959(a)(3)).”

20 (b) AMOUNT OF INCLUSION.—Subpart F of part III  
21 of subchapter N of chapter 1 is amended by inserting after  
22 section 956 the following new section:

1 **“SEC. 956A. EARNINGS INVESTED IN EXCESS PASSIVE AS-**  
2 **SETS.**

3 “(a) GENERAL RULE.—In the case of any controlled  
4 foreign corporation, the amount determined under this  
5 section with respect to any United States shareholder for  
6 any taxable year is the lesser of—

7 “(1) the excess (if any) of—

8 “(A) such shareholder’s pro rata share of  
9 the amount of the controlled foreign corpora-  
10 tion’s excess passive assets for such taxable  
11 year, over

12 “(B) the amount of earnings and profits  
13 described in section 959(c)(1)(B) with respect  
14 to such shareholder, or

15 “(2) such shareholder’s pro rata share of the  
16 applicable earnings of such controlled foreign cor-  
17 poration determined after the application of section  
18 951(a)(1)(B).

19 “(b) APPLICABLE EARNINGS.—For purposes of this  
20 section, the term ‘applicable earnings’ means, with respect  
21 to any controlled foreign corporation, the sum of—

22 “(1) the amount referred to in section  
23 316(a)(1) to the extent such amount was accumu-  
24 lated in taxable years beginning after September 30,  
25 1993, and

1           “(2) the amount referred to in section  
2           316(a)(2),  
3 but reduced by distributions made during the taxable year  
4 and reduced by the earnings and profits described in sec-  
5 tion 959(c)(1) to the extent that the earnings and profits  
6 so described were accumulated in taxable years beginning  
7 after September 30, 1993.

8           “(c) EXCESS PASSIVE ASSETS.—For purposes of this  
9 section—

10           “(1) IN GENERAL.—The excess passive assets  
11 of any controlled foreign corporation for any taxable  
12 year is the excess (if any) of—

13                   “(A) the average of the amounts of passive  
14 assets held by such corporation as of the close  
15 of each quarter of such taxable year, over

16                   “(B) 25 percent of the average of the  
17 amounts of total assets held by such corpora-  
18 tion as of the close of each quarter of such tax-  
19 able year.

20 For purposes of the preceding sentence, the amount  
21 taken into account with respect to any asset shall be  
22 its adjusted basis as determined for purposes of  
23 computing earnings and profits.

24           “(2) PASSIVE ASSET.—

1           “(A) IN GENERAL.—Except as otherwise  
2           provided in this section, the term ‘passive asset’  
3           means any asset held by the controlled foreign  
4           corporation which produces passive income (as  
5           defined in section 1296(b)) or is held for the  
6           production of such income.

7           “(B) COORDINATION WITH SECTION 956.—  
8           The term ‘passive asset’ shall not include any  
9           United States property (as defined in section  
10          956).

11          “(3) CERTAIN RULES TO APPLY.—For purposes  
12          of this subsection, the rules of the following provi-  
13          sions shall apply:

14               “(A) Section 1296(c) (relating to look-thru  
15               rules).

16               “(B) Section 1297(d) (relating to leasing  
17               rules).

18               “(C) Section 1297(e) (relating to intangi-  
19               ble property).

20          “(d) TREATMENT OF CERTAIN CHAINS OF CON-  
21          TROLLED FOREIGN CORPORATION.—

22               “(1) IN GENERAL.—For purposes of applying  
23               subsection (c)—

24                       “(A) all controlled foreign corporations  
25                       which are members of the same CFC chain

1 shall be treated as 1 controlled foreign corpora-  
2 tion, and

3 “(B) the amount of the excess passive as-  
4 sets determined with respect to such 1 corpora-  
5 tion shall be allocated among the controlled for-  
6 eign corporations which are members of such  
7 chain in proportion to their respective amounts  
8 of applicable earnings.

9 “(2) CFC CHAIN.—For purposes of paragraph  
10 (1), the term ‘CFC chain’ means any chain of con-  
11 trolled foreign corporations connected through stock  
12 ownership, but only if more than 50 percent (by vote  
13 or value) of the stock of each member of such chain  
14 (other than the top tier corporation) is owned (di-  
15 rectly or indirectly) by one or more other members  
16 of the chain.

17 “(e) SPECIAL RULE WHERE CORPORATION CEASES  
18 TO BE CONTROLLED FOREIGN CORPORATION DURING  
19 TAXABLE YEAR.—If any foreign corporation ceases to be  
20 a controlled foreign corporation during any taxable year—

21 “(1) the determination of any United States  
22 shareholder’s pro rata share shall be made on the  
23 basis of stock owned (within the meaning of section  
24 958(a)) by such shareholder on the last day during

1 the taxable year on which the foreign corporation is  
2 a controlled foreign corporation, and

3 “(2) the amount of such corporation’s excess  
4 passive assets for such taxable year shall be deter-  
5 mined by only taking into account quarters ending  
6 on or before such last day, and

7 “(3) in determining applicable earnings, the  
8 amount taken into account by reason of being de-  
9 scribed in paragraph (2) of section 316(a) shall be  
10 the portion of the amount so described which is allo-  
11 cable (on a pro rata basis) to the part of such year  
12 during which the corporation is a controlled foreign  
13 corporation.

14 “(f) REGULATIONS.—The Secretary shall prescribe  
15 such regulations as may be necessary to carry out the pur-  
16 poses of this section, including regulations to prevent the  
17 avoidance of the provisions of this section through reorga-  
18 nizations or otherwise.”

19 (c) PREVIOUSLY TAXED INCOME RULES.—

20 (1) IN GENERAL.—Subsection (a) of section  
21 959 (relating to exclusion from gross income of pre-  
22 viously taxed earnings and profits) is amended by  
23 striking “or” at the end of paragraph (1), by adding  
24 “or” at the end of paragraph (2), and by inserting  
25 after paragraph (2) the following new paragraph:

1           “(3) such amounts would, but for this sub-  
2           section, be included under section 951(a)(1)(C) in  
3           the gross income of,”.

4           (2) ALLOCATION RULES.—

5           (A) Subsection (a) of section 959 is  
6           amended by adding at the end thereof the fol-  
7           lowing new sentence: “The rules of subsection  
8           (c) shall apply for purposes of paragraph (1) of  
9           this subsection and the rules of subsection (f)  
10          shall apply for purposes of paragraphs (2) and  
11          (3) of this subsection.”.

12          (B) Section 959 is amended by adding at  
13          the end thereof the following new subsection:

14          “(f) ALLOCATION RULES FOR CERTAIN INCLU-  
15          SIONS.—

16          “(1) IN GENERAL.—For purposes of this sec-  
17          tion—

18                 “(A) amounts that would be included  
19                 under subparagraph (B) of section 951(a)(1)  
20                 (determined without regard to this section)  
21                 shall be treated as attributable first to earnings  
22                 described in subsection (c)(2), and then to earn-  
23                 ings described in subsection (c)(3), and

24                 “(B) amounts that would be included  
25                 under subparagraph (C) of section 951(a)(1)

1 (determined without regard to this section)  
2 shall be treated as attributable first to earnings  
3 described in subsection (c)(2) to the extent the  
4 earnings so described were accumulated in tax-  
5 able years beginning after September 30, 1993,  
6 and then to earnings described in subsection  
7 (c)(3).

8 “(2) TREATMENT OF DISTRIBUTIONS.—In ap-  
9 plying this section, actual distributions shall be  
10 taken into account before amounts that would be in-  
11 cluded under subparagraphs (B) and (C) of section  
12 951(a)(1) (determined without regard to this  
13 section).”

14 (C) Paragraph (1) of section 959(c) is  
15 amended to read as follows:

16 “(1) first to the aggregate of—

17 “(A) earnings and profits attributable to  
18 amounts included in gross income under section  
19 951(a)(1)(B) (or which would have been in-  
20 cluded except for subsection (a)(2) of this sec-  
21 tion), and

22 “(B) earnings and profits attributable to  
23 amounts included in gross income under section  
24 951(a)(1)(C) (or which would have been in-

1           cluded except for subsection (a)(3) of this  
2           section),  
3           with any distribution being allocated between earn-  
4           ings and profits described in subparagraph (A) and  
5           earnings and profits described in subparagraph (B)  
6           proportionately on the basis of the respective  
7           amounts of such earnings and profits.”.

8           (3) CONFORMING AMENDMENTS.—

9           (A) Subsections (a) and (b) of section 959  
10          are each amended by striking “earnings and  
11          profits for a taxable year” and inserting “earn-  
12          ings and profits”.

13          (B) Paragraph (2) of section 959(c) is  
14          amended to read as follows:

15          “(2) then to earnings and profits attributable to  
16          amounts included in gross income under section  
17          951(a)(1)(A) (but reduced by amounts not included  
18          under subparagraph (B) or (C) of section 951(a)(1)  
19          because of the exclusions in paragraphs (2) and (3)  
20          of subsection (a) of this section), and”

21          (C) Subsection (b) of section 989 is  
22          amended by striking “section 951(a)(1)(B)”  
23          and inserting “subparagraph (B) or (C) of sec-  
24          tion 951(a)(1)”.

1 (d) MODIFICATIONS TO PASSIVE FOREIGN INVEST-  
2 MENT COMPANY RULES.—

3 (1) ADJUSTED BASIS USED IN CERTAIN DETER-  
4 MINATIONS.—Subsection (a) of section 1296 is  
5 amended by striking the material following para-  
6 graph (2) and inserting the following:

7 “In the case of a controlled foreign corporation (or any  
8 other foreign corporation if such corporation so elects), the  
9 determination under paragraph (2) shall be based on the  
10 adjusted bases (as determined for purposes of computing  
11 earnings and profits) of its assets in lieu of their value.  
12 Such an election, once made, may be revoked only with  
13 the consent of the Secretary.”

14 (2) TREATMENT OF CERTAIN SUBPART F IN-  
15 CLUSIONS.—Subsection (b) of section 1297 is  
16 amended by adding at the end thereof the following  
17 new paragraph:

18 “(9) TREATMENT OF CERTAIN SUBPART F IN-  
19 CLUSIONS.—Any amount included in gross income  
20 under subparagraph (B) or (C) of section 951(a)(1)  
21 shall be treated as a distribution received with re-  
22 spect to the stock.”

23 (3) TREATMENT OF CERTAIN DEALERS IN SE-  
24 CURITIES.—Subsection (b) of section 1296 is

1 amended by adding at the end thereof the following  
2 new paragraph:

3 “(3) TREATMENT OF CERTAIN DEALERS IN SE-  
4 CURITIES.—

5 “(A) IN GENERAL.—In the case of any for-  
6 eign corporation which is a controlled foreign  
7 corporation (as defined in section 957(a)), the  
8 term ‘passive income’ does not include any in-  
9 come derived in the active conduct of a securi-  
10 ties business by such corporation if such cor-  
11 poration is registered as a securities broker or  
12 dealer under section 15(a) of the Securities Ex-  
13 change Act of 1934 or is registered as a Gov-  
14 ernment securities broker or dealer under sec-  
15 tion 15C(a) of such Act. To the extent provided  
16 in regulations, such term shall not include any  
17 income derived in the active conduct of a securi-  
18 ties business by a controlled foreign corporation  
19 which is not so registered.

20 “(B) APPLICATION OF LOOK-THRU  
21 RULES.—For purposes of paragraph (2)(C),  
22 rules similar to the rules of subparagraph (A)  
23 of this paragraph shall apply in determining  
24 whether any income of a related person (wheth-  
25 er or not a corporation) is passive income.

1           “(C) LIMITATION.—The preceding provi-  
2           sions of this paragraph shall only apply in the  
3           case of persons who are United States share-  
4           holders (as defined in section 951(b)) in the  
5           controlled foreign corporation.”

6           (4) LEASING AND INTANGIBLE ASSET RULES.—  
7           Section 1297 is amended by redesignating sub-  
8           section (d) as subsection (f) and by inserting after  
9           subsection (c) the following new subsections:

10          “(d) TREATMENT OF CERTAIN LEASED PROP-  
11          PERTY.—For purposes of this part:

12           “(1) IN GENERAL.—Any tangible personal  
13           property with respect to which a foreign corporation  
14           is the lessee under a lease with a term of at least  
15           12 months shall be treated as an asset actually held  
16           by such corporation.

17           “(2) DETERMINATION OF ADJUSTED BASIS.—

18           “(A) IN GENERAL.—The adjusted basis of  
19           any asset to which paragraph (1) applies shall  
20           be the unamortized portion (as determined  
21           under regulations prescribed by the Secretary)  
22           of the present value of the payments under the  
23           lease for the use of such property.

24           “(B) PRESENT VALUE.—For purposes of  
25           subparagraph (A), the present value of pay-

1           ments described in subparagraph (A) shall be  
2           determined in the manner provided in regula-  
3           tions prescribed by the Secretary—

4                   “(i) as of the beginning of the lease  
5                   term, and

6                   “(ii) except as provided in such regu-  
7                   lations, by using a discount rate equal to  
8                   the applicable Federal rate determined  
9                   under section 1274(d)—

10                   “(I) by substituting the lease  
11                   term for the term of the debt instru-  
12                   ment, and

13                   “(II) without regard to para-  
14                   graph (2) or (3) thereof.

15           “(3) EXCEPTIONS.—This subsection shall not  
16           apply in any case where—

17                   “(A) the lessor is a related person (as de-  
18                   fined in section 954(d)(3)) with respect to the  
19                   foreign corporation, or

20                   “(B) a principal purpose of leasing the  
21                   property was to avoid the provisions of this  
22                   section.

23           “(e) SPECIAL RULES FOR CERTAIN INTANGIBLES.—

24                   “(1) RESEARCH EXPENDITURES.—The adjusted  
25                   basis of the total assets of a controlled foreign cor-

1       poration shall be increased by the research or experi-  
2       mentation expenditures (within the meaning of sec-  
3       tion 174) paid or incurred by such foreign corpora-  
4       tion during the taxable year and the preceding 2  
5       taxable years.

6           “(2) CERTAIN LICENSED INTANGIBLES.—In the  
7       case of any intangible property (as defined in section  
8       936(h)(3)(B)) with respect to which a controlled for-  
9       eign corporation is a licensee and which is used by  
10      such foreign corporation in the active conduct of a  
11      trade or business, the adjusted basis of the total as-  
12      sets of such foreign corporation shall be increased by  
13      an amount equal to 300 percent of the payments  
14      made during the taxable year for the use of such in-  
15      tangible property. For purposes of the preceding  
16      sentence, payments to a foreign person shall not be  
17      taken into account if such foreign person is a related  
18      person (as defined in section 954(d)(3)) with respect  
19      to the controlled foreign corporation.

20           “(3) CONTROLLED FOREIGN CORPORATION.—  
21      For purposes of this subsection, the term ‘controlled  
22      foreign corporation’ has the meaning given such  
23      term by section 957(a).”

24           “(e) EFFECTIVE DATE.—The amendments made by  
25      this section shall apply to taxable years of foreign corpora-

1 tions beginning after September 30, 1993, and to taxable  
2 years of United States shareholders in which or with which  
3 such taxable years of foreign corporations end.

4 **SEC. 8232. MODIFICATION TO TAXATION OF INVESTMENT**  
5 **IN UNITED STATES PROPERTY.**

6 (a) GENERAL RULE.—Section 956 (relating to in-  
7 vestment of earnings in United States property) is amend-  
8 ed—

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

11 (2) by striking subsection (a) and inserting the  
12 following:

13 “(a) GENERAL RULE.—In the case of any controlled  
14 foreign corporation, the amount determined under this  
15 section with respect to any United States shareholder for  
16 any taxable year is the lesser of—

17 “(1) the excess (if any) of—

18 “(A) such shareholder’s pro rata share of  
19 the average of the amounts of United States  
20 property held (directly or indirectly) by the con-  
21 trolled foreign corporation as of the close of  
22 each quarter of such taxable year, over

23 “(B) the amount of earnings and profits  
24 described in section 959(c)(1)(A) with respect  
25 to such shareholder, or

1           “(2) such shareholder’s pro rata share of the  
2           applicable earnings of such controlled foreign cor-  
3           poration.

4           The amount taken into account under paragraph (1) with  
5           respect to any property shall be its adjusted basis as deter-  
6           mined for purposes of computing earnings and profits, re-  
7           duced by any liability to which the property is subject.

8           “(b) ADJUSTMENTS FOR CERTAIN DISTRIBUTIONS;  
9           OTHER SPECIAL RULES.—

10           “(1) APPLICABLE EARNINGS.—For purposes of  
11           this section, the term ‘applicable earnings’ has the  
12           meaning given to such term by section 956A(b), ex-  
13           cept that the provisions of such section disregarding  
14           earnings and profits accumulated in taxable years  
15           beginning before October 1, 1993 shall be dis-  
16           regarded.

17           “(2) SPECIAL RULE WHERE CORPORATION  
18           CEASES TO BE CONTROLLED FOREIGN CORPORA-  
19           TION.—Rules similar to the rules of section 956A(e)  
20           shall apply for purposes of this section.”

21           (b) CONFORMING AMENDMENTS.—

22           (1) Subparagraph (B) of section 951(a)(1) is  
23           amended to read as follows:

24           “(B) the amount determined under section  
25           956 with respect to such shareholder for such

1 year (but only to the extent not excluded from  
2 gross income under section 959(a)(2)); and”

3 (2) Subsection (a) of section 951 is amended by  
4 striking paragraph (4).

5 (c) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to taxable years of controlled for-  
7 eign corporations beginning after September 30, 1993,  
8 and to taxable years of United States shareholders in  
9 which or with which such taxable years of controlled for-  
10 eign corporations end.

11 **SEC. 8233. OTHER MODIFICATIONS TO SUBPART F.**

12 (a) SAME COUNTRY EXCEPTION NOT TO APPLY TO  
13 CERTAIN DIVIDENDS.—

14 (1) IN GENERAL.—Paragraph (3) of section  
15 954(c) (relating to certain income received from re-  
16 lated persons) is amended by adding at the end  
17 thereof the following new subparagraph:

18 “(C) EXCEPTION FOR CERTAIN DIVI-  
19 DENDS.—Subparagraph (A)(i) shall not apply  
20 to any dividend with respect to any stock which  
21 is attributable to earnings and profits of the  
22 distributing corporation accumulated during  
23 any period during which the person receiving  
24 such dividend did not hold such stock.”

1           (2) EFFECTIVE DATE.—The amendment made  
2 by paragraph (1) shall apply to taxable years of con-  
3 trolled foreign corporations beginning after Septem-  
4 ber 30, 1993, and to taxable years of United States  
5 shareholders in which or with which such taxable  
6 years of controlled foreign corporations end.

7           (b) SIMPLIFICATION OF SECTION 960(b).—

8           (1) IN GENERAL.—Subsection (b) of section  
9 960 is amended—

10                   (A) by redesignating paragraphs (3) and  
11                   (4) as paragraphs (4) and (5), respectively, and

12                   (B) by striking paragraphs (1) and (2) and  
13 inserting the following new paragraphs:

14           “(1) INCREASE IN SECTION 904 LIMITATION.—

15 In the case of any taxpayer who—

16                   “(A) either (i) chose to have the benefits  
17 of subpart A of this part for a taxable year be-  
18 ginning after September 30, 1993, in which he  
19 was required under section 951(a) to include  
20 any amount in his gross income, or (ii) did not  
21 pay or accrue for such taxable year any income,  
22 war profits, or excess profits taxes to any for-  
23 eign country or to any possession of the United  
24 States,

1           “(B) chooses to have the benefits of sub-  
2           part A of this part for any taxable year in  
3           which he receives 1 or more distributions or  
4           amounts which are excludable from gross in-  
5           come under section 959(a) and which are at-  
6           tributable to amounts included in his gross in-  
7           come for taxable years referred to in subpara-  
8           graph (A), and

9           “(C) for the taxable year in which such  
10          distributions or amounts are received, pays, or  
11          is deemed to have paid, or accrues income, war  
12          profits, or excess profits taxes to a foreign  
13          country or to any possession of the United  
14          States with respect to such distributions or  
15          amounts,

16          the limitation under section 904 for the taxable year  
17          in which such distributions or amounts are received  
18          shall be increased by the lesser of the amount of  
19          such taxes paid, or deemed paid, or accrued with re-  
20          spect to such distributions or amounts or the  
21          amount in the excess limitation account as of the be-  
22          ginning of such taxable year.

23                 “(2) EXCESS LIMITATION ACCOUNT.—

24                         “(A) ESTABLISHMENT OF ACCOUNT.—

25           Each taxpayer meeting the requirements of

1 paragraph (1)(A) shall establish an excess limi-  
2 tation account. The opening balance of such ac-  
3 count shall be zero.

4 “(B) INCREASES IN ACCOUNT.—For each  
5 taxable year beginning after September 30,  
6 1993, the taxpayer shall increase the amount in  
7 the excess limitation account by the excess (if  
8 any) of—

9 “(i) the amount by which the limita-  
10 tion under section 904(a) for such taxable  
11 year was increased by reason of the total  
12 amount of the inclusions in gross income  
13 under section 951(a) for such taxable year,  
14 over

15 “(ii) the amount of any income, war  
16 profits, and excess profits taxes paid, or  
17 deemed paid, or accrued to any foreign  
18 country or possession of the United States  
19 which were allowable as a credit under sec-  
20 tion 901 for such taxable year and which  
21 would not have been allowable but for the  
22 inclusions in gross income described in  
23 clause (i).

24 Proper reductions in the amount added to the  
25 account under the preceding sentence for any

1 taxable year shall be made for any increase in  
2 the credit allowable under section 901 for such  
3 taxable year by reason of a carryback if such  
4 increase would not have been allowable but for  
5 the inclusions in gross income described in  
6 clause (i).

7 “(C) DECREASES IN ACCOUNT.—For each  
8 taxable year beginning after September 30,  
9 1993, for which the limitation under section  
10 904 was increased under paragraph (1), the  
11 taxpayer shall reduce the amount in the excess  
12 limitation account by the amount of such in-  
13 crease.

14 “(3) DISTRIBUTIONS OF INCOME PREVIOUSLY  
15 TAXED IN YEARS BEGINNING BEFORE OCTOBER 1,  
16 1993.—If the taxpayer receives a distribution or  
17 amount in a taxable year beginning after September  
18 30, 1993, which is excluded from gross income  
19 under section 959(a) and is attributable to any  
20 amount included in gross income under section  
21 951(a) for a taxable year beginning before October  
22 1, 1993, the limitation under section 904 for the  
23 taxable year in which such amount or distribution is  
24 received shall be increased by the amount deter-  
25 mined under this subsection as in effect on the day

1 before the date of the enactment of the Revenue  
2 Reconciliation Act of 1993.”

3 (2) EFFECTIVE DATE.—The amendment made  
4 by paragraph (1) shall apply to taxable years begin-  
5 ning after September 30, 1993.

6 **Subpart B—Allocation of Research and Experimental**  
7 **Expenditures**

8 **SEC. 8234. ALLOCATION OF RESEARCH AND EXPERI-**  
9 **MENTAL EXPENDITURES.**

10 (a) GENERAL RULE.—Subparagraph (B) of section  
11 864(f)(1) (relating to allocation of research and experi-  
12 mental expenditures) is amended by striking “64 percent”  
13 each place it appears and inserting “50 percent”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) Subsection (f) of section 864 is amended by  
16 striking paragraph (5) and inserting the following  
17 new paragraphs:

18 “(5) REGULATIONS.—The Secretary shall pre-  
19 scribe such regulations as may be appropriate to  
20 carry out the purposes of this subsection, including  
21 regulations relating to the determination of whether  
22 any expenses are attributable to activities conducted  
23 in the United States or outside the United States  
24 and regulations providing such adjustments to the  
25 provisions of this subsection as may be appropriate

1 in the case of cost-sharing arrangements and con-  
2 tract research.

3 “(6) APPLICABILITY.—This subsection shall  
4 apply to the taxpayer’s first taxable year (beginning  
5 on or before August 1, 1994) following the tax-  
6 payer’s last taxable year to which Revenue Proce-  
7 dure 92–56 applies or would apply if the taxpayer  
8 elected the benefits of such Revenue Procedure.”

9 (2) Subparagraph (D) of section 864(f)(4) is  
10 amended by striking “subparagraph (C)” and insert-  
11 ing “subparagraph (B) or (C)”.

12 **Subpart C—Other Provisions**

13 **SEC. 8235. REPEAL OF CERTAIN EXCEPTIONS FOR WORK-**  
14 **ING CAPITAL.**

15 (a) PROVISIONS RELATING TO OIL AND GAS IN-  
16 COME.—

17 (1) AMENDMENTS TO SECTION 907.—

18 (A) Paragraph (1) of section 907(c) is  
19 amended by adding at the end thereof the fol-  
20 lowing new flush sentence:

21 “Such term does not include any dividend or interest in-  
22 come which is passive income (as defined in section  
23 904(d)(2)(A)).”.

1 (B) Paragraph (2) of section 907(c) is  
2 amended by adding at the end thereof the fol-  
3 lowing new flush sentence:

4 “Such term does not include any dividend or interest in-  
5 come which is passive income (as defined in section  
6 904(d)(2)(A)).”.

7 (2) SEPARATE APPLICATION OF FOREIGN TAX  
8 CREDIT.—Clause (iii) of section 904(d)(2)(A) is  
9 amended by inserting “and” at the end of subclause  
10 (II), by striking “, and” at the end of subclause  
11 (III) and inserting a period, and by striking  
12 subclause (IV).

13 (3) TREATMENT UNDER SUBPART F.—

14 (A) Paragraph (1) of section 954(g) is  
15 amended by adding at the end thereof the fol-  
16 lowing new flush sentence:

17 Such term shall not include any foreign personal holding  
18 company income (as defined in subsection (c)).”.

19 (B) Paragraph (8) of section 954(b) is  
20 amended by striking “(1),”.

21 (b) TREATMENT OF SHIPPING INCOME.—Subsection  
22 (f) of section 954 is amended by adding at the end thereof  
23 the following new sentence: “Such term shall not include  
24 any dividend or interest income which is foreign personal  
25 holding company income (as defined in subsection (c)).”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 1992.

4 **SEC. 8236. MODIFICATIONS OF ACCURACY-RELATED PEN-**  
5 **ALTY.**

6 (a) THRESHOLD REQUIREMENT.—Clause (ii) of sec-  
7 tion 6662(e)(1)(B) (relating to substantial valuation  
8 misstatement under chapter 1) is amended to read as  
9 follows:

10 “(ii) the net section 482 transfer price  
11 adjustment for the taxable year exceeds  
12 the lesser of \$5,000,000 or 10 percent of  
13 the taxpayer’s gross receipts.”

14 (b) CERTAIN ADJUSTMENTS EXCLUDED IN DETER-  
15 MINING THRESHOLD.—Subparagraph (B) of section  
16 6662(e)(3) is amended to read as follows:

17 “(B) CERTAIN ADJUSTMENTS EXCLUDED  
18 IN DETERMINING THRESHOLD.—For purposes  
19 of determining whether the threshold require-  
20 ments of paragraph (1)(B)(ii) are met, the fol-  
21 lowing shall be excluded:

22 “(i) Any portion of the net increase in  
23 taxable income referred to in subparagraph  
24 (A) which is attributable to any redeter-  
25 mination of a price if—

1           “(I) it is established that the tax-  
2           payer determined such price in ac-  
3           cordance with a specific pricing meth-  
4           od set forth in the regulations pre-  
5           scribed under section 482 and that  
6           the taxpayer’s use of such method was  
7           reasonable,

8           “(II) the taxpayer has docu-  
9           mentation (which was in existence as  
10          of the time of filing the return) which  
11          sets forth the determination of such  
12          price in accordance with such a meth-  
13          od and which establishes that the use  
14          of such method was reasonable, and

15          “(III) the taxpayer provides such  
16          documentation to the Secretary within  
17          30 days of a request for such docu-  
18          mentation.

19          “(ii) Any portion of the net increase  
20          in taxable income referred to in subpara-  
21          graph (A) which is attributable to a rede-  
22          termination of price where such price was  
23          not determined in accordance with such a  
24          specific pricing method if—

1           “(I) the taxpayer establishes that  
2           none of such pricing methods was  
3           likely to result in a price that would  
4           clearly reflect income, the taxpayer  
5           used another pricing method to deter-  
6           mine such price, and such other pric-  
7           ing method was likely to result in a  
8           price that would clearly reflect in-  
9           come,

10           “(II) the taxpayer has docu-  
11           mentation (which was in existence as  
12           of the time of filing the return) which  
13           sets forth the determination of such  
14           price in accordance with such other  
15           method and which establishes that the  
16           requirements of subclause (I) were  
17           satisfied, and

18           “(III) the taxpayer provides such  
19           documentation to the Secretary within  
20           30 days of request for such docu-  
21           mentation.

22           “(iii) Any portion of such net increase  
23           which is attributable to any transaction  
24           solely between foreign corporations unless,  
25           in the case of any such corporations, the

1 treatment of such transaction affects the  
2 determination of income from sources with-  
3 in the United States or taxable income ef-  
4 fectively connected with the conduct of a  
5 trade or business within the United  
6 States.”

7 (c) COORDINATION WITH REASONABLE CAUSE EX-  
8 CEPTION.—Paragraph (3) of section 6662(e) is amended  
9 by adding at the end thereof the following new sub-  
10 paragraph:

11 “(D) COORDINATION WITH REASONABLE  
12 CAUSE EXCEPTION.—For purposes of section  
13 6664(c) the taxpayer shall not be treated as  
14 having reasonable cause for any portion of an  
15 underpayment attributable to a net section 482  
16 transfer price adjustment unless such taxpayer  
17 meets the requirements of clause (i), (ii), or (iii)  
18 of subparagraph (B) with respect to such por-  
19 tion.”

20 (d) CONFORMING AMENDMENT.—Clause (iii) of sec-  
21 tion 6662(h)(2)(A) is amended to read as follows:

22 “(iii) in paragraph (1)(B)(ii)—  
23 “(I) ‘\$20,000,000’ for  
24 ‘\$5,000,000’, and

1                   “(II) ‘20 percent’ for ‘10 per-  
2                   cent’.”

3           (e) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to taxable years beginning after  
5 December 31, 1993.

6 **SEC. 8237. DENIAL OF PORTFOLIO INTEREST EXEMPTION**  
7 **FOR CONTINGENT INTEREST.**

8           (a) GENERAL RULE.—

9               (1) Subsection (h) of section 871 (relating to  
10 repeal of tax on interest of nonresident alien individ-  
11 uals received from certain portfolio debt invest-  
12 ments) is amended by redesignating paragraphs (4),  
13 (5), and (6) as paragraphs (5), (6), and (7), respec-  
14 tively, and by inserting after paragraph (3) the fol-  
15 lowing new paragraph:

16               “(4) PORTFOLIO INTEREST NOT TO INCLUDE  
17 CERTAIN CONTINGENT INTEREST.—For purposes of  
18 this subsection—

19                   “(A) IN GENERAL.—Except as otherwise  
20 provided in this paragraph, the term ‘portfolio  
21 interest’ shall not include—

22                           “(i) any interest if the amount of such  
23 interest is determined by reference to—

1           “(I) any receipts, sales or other  
2 cash flow of the debtor or a related  
3 person,

4           “(II) any income or profits of the  
5 debtor or a related person,

6           “(III) any change in value of any  
7 property of the debtor or a related  
8 person, or

9           “(IV) any dividend, partnership  
10 distributions, or similar payments  
11 made by the debtor or a related per-  
12 son, or

13           “(ii) any other type of contingent in-  
14 terest that is identified by the Secretary by  
15 regulation, where a denial of the portfolio  
16 interest exemption is necessary or appro-  
17 priate to prevent avoidance of Federal in-  
18 come tax.

19           “(B) RELATED PERSON.—The term ‘relat-  
20 ed person’ means any person who is related to  
21 the debtor within the meaning of section 267(b)  
22 or 707(b)(1), or who is a party to any arrange-  
23 ment undertaken for a purpose of avoiding the  
24 application of this paragraph.

1           “(C) EXCEPTIONS.—Subparagraph (A)(i)  
2 shall not apply to—

3           “(i) any amount of interest solely by  
4 reason of the fact that the timing of any  
5 interest or principal payment is subject to  
6 a contingency,

7           “(ii) any amount of interest solely by  
8 reason of the fact that the interest is paid  
9 with respect to nonrecourse or limited re-  
10 course indebtedness,

11           “(iii) any amount of interest all or  
12 substantially all of which is determined by  
13 reference to any other amount of interest  
14 not described in subparagraph (A) (or by  
15 reference to the principal amount of in-  
16 debtedness on which such other interest is  
17 paid),

18           “(iv) any amount of interest solely by  
19 reason of the fact that the debtor or a re-  
20 lated person enters into a hedging trans-  
21 action to reduce the risk of interest rate or  
22 currency fluctuations with respect to such  
23 interest,

24           “(v) any amount of interest deter-  
25 mined by reference to—

1 “(I) changes in the value of prop-  
2 erty (including stock) that is actively  
3 traded (within the meaning of section  
4 1092(d)) other than property de-  
5 scribed in section 897(c)(1) or (g),

6 “(II) the yield on property de-  
7 scribed in subclause (I), other than a  
8 debt instrument that pays interest de-  
9 scribed in subparagraph (A), or stock  
10 or other property that represents a  
11 beneficial interest in the debtor or a  
12 related person, or

13 “(III) changes in any index of  
14 the value of property described in  
15 subclause (I) or of the yield on prop-  
16 erty described in subclause (II), and

17 “(vi) any other type of interest identi-  
18 fied by the Secretary by regulation.

19 “(D) EXCEPTION FOR CERTAIN EXISTING  
20 INDEBTEDNESS.—Subparagraph (A) shall not  
21 apply to any interest paid or accrued with re-  
22 spect to any indebtedness with a fixed term—

23 “(i) which was issued on or before  
24 April 7, 1993, or

1           “(ii) which was issued after such date  
2           pursuant to a written binding contract in  
3           effect on such date and at all times there-  
4           after before such indebtedness was issued.”

5           (2) Subsection (c) of section 881 is amended by  
6           redesignating paragraphs (4), (5), and (6) as para-  
7           graphs (5), (6), and (7), respectively, and by insert-  
8           ing after paragraph (3) the following new para-  
9           graph:

10           “(4) PORTFOLIO INTEREST NOT TO INCLUDE  
11           CERTAIN CONTINGENT INTEREST.—For purposes of  
12           this subsection, the term ‘portfolio interest’ shall not  
13           include any interest which is treated as not being  
14           portfolio interest under the rules of section  
15           871(h)(4).”

16           (b) CONFORMING AMENDMENTS.—

17           (1) Clause (ii) of section 871(h)(2)(B) is  
18           amended by striking “paragraph (4)” and inserting  
19           “paragraph (5)”.

20           (2) Clause (ii) of section 881(c)(2)(B) is  
21           amended by striking “section 871(h)(4)” and insert-  
22           ing “section 871(h)(5)”.

23           (3) Paragraph (6) of section 881(c) (as redesign-  
24           ated by subsection (a)) is amended by striking

1 “section 871(h)(5)” each place it appears and in-  
2 serting “section 871(h)(6)”.

3 (4) Paragraph (9) of section 1441(c) is amend-  
4 ed by striking “section 871(h)(3)” and inserting  
5 “section 871(h)(3) or (4)”.

6 (5) Subsection (a) of section 1442 is amend-  
7 ed—

8 (A) by striking “871(h)(3)” and inserting  
9 “871(h)(3) or (4)”, and

10 (B) by striking “881(c)(3)” and inserting  
11 “881(c)(3) or (4)”.

12 (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to interest received after December  
14 31, 1993.

15 **SEC. 8238. REGULATIONS DEALING WITH CONDUIT AR-**  
16 **RANGEMENTS.**

17 Section 7701 is amended by redesignating subsection  
18 (l) as subsection (m) and by inserting after subsection (k)  
19 the following new subsection:

20 “(l) REGULATIONS RELATING TO CONDUIT AR-  
21 RANGEMENTS.—The Secretary may prescribe regulations  
22 recharacterizing any multiple-party financing transaction  
23 as a transaction directly among any 2 or more of such  
24 parties where the Secretary determines that such

1 recharacterization is appropriate to prevent avoidance of  
2 any tax imposed by this title.”

3 **SEC. 8239. TREATMENT OF EXPORT OF CERTAIN**  
4 **SOFTWOOD LOGS.**

5 (a) FOREIGN SALES CORPORATIONS.—Paragraph (2)  
6 of section 927(a) (relating to exclusion of certain prop-  
7 erty) is amended by striking “or” at the end of subpara-  
8 graph (C), by striking the period at the end of subpara-  
9 graph (D) and inserting “, or”, and by adding at the end  
10 the following:

11 “(E) any unprocessed timber which is a  
12 softwood.

13 For purposes of subparagraph (E), the term ‘un-  
14 processed timber’ means any log, cant, or similar  
15 form of timber.”

16 (b) DOMESTIC INTERNATIONAL SALES CORPORA-  
17 TIONS.—Paragraph (2) of section 993(c) (relating to ex-  
18 clusion of certain property) is amended—

19 (1) by striking “or” at the end of subparagraph  
20 (C), by striking the period at the end of subpara-  
21 graph (D) and inserting “, or”, and by adding after  
22 subparagraph (D) the following new subparagraph:

23 “(E) any unprocessed timber which is a  
24 softwood.”, and

1           (2) by adding at the end the following new sen-  
2           tence: “For purposes of subparagraph (E), the term  
3           ‘unprocessed timber’ means any log, cant, or similar  
4           form of timber.”

5           (c) SOURCE RULE.—Subsection (b) of section 865  
6           (relating to source rules for personal property sales) is  
7           amended by adding at the end the following: “Notwith-  
8           standing the preceding sentence, any income from the sale  
9           of any unprocessed timber which is a softwood and was  
10          cut from an area in the United States shall be sourced  
11          in the United States and the rules of sections 862(a)(6)  
12          and 863(b) shall not apply to any such income. For pur-  
13          poses of the preceding sentence, the term ‘unprocessed  
14          timber’ means any log, cant, or similar form of timber.”

15          (d) ELIMINATION OF DEFERRAL.—Subsection (d) of  
16          section 954 is amended by adding at the end the following  
17          new paragraph:

18                 “(4) SPECIAL RULE FOR CERTAIN TIMBER  
19                 PRODUCTS.—For purposes of subsection (a)(2), the  
20                 term ‘foreign base company sales income’ includes  
21                 any income (whether in the form of profits, commis-  
22                 sions, fees, or otherwise) derived in connection  
23                 with—

24                         “(A) the sale of any unprocessed timber  
25                         referred to in section 865(b), or

1           “(B) the milling of any such timber out-  
2           side the United States.

3           Subpart G shall not apply to any amount treated as  
4           subpart F income by reason of this paragraph.”

5           (e) EFFECTIVE DATE.—The amendments made by  
6           this section shall apply to sales, exchanges, or other dis-  
7           positions after the date of the enactment of this Act.

## 8   **PART IV—TRANSPORTATION FUELS PROVISIONS**

### 9           **Subpart A—Transportation Fuels Tax**

#### 10   **SEC. 8241. TRANSPORTATION FUELS TAX.**

11           (a) GASOLINE.—

12                   (1) IN GENERAL.—Clause (iii) of section  
13           4081(a)(2)(B) (relating to rates of tax) is amended  
14           to read as follows:

15                           “(iii) the deficit reduction rate is 6.8 cents  
16                           a gallon (4.3 cents a gallon on and after Octo-  
17                           ber 1, 1995).”

18                   (2) DEFICIT REDUCTION RATE MADE PERMA-  
19           NENT.—Section 4081(d) (relating to termination) is  
20           amended by striking paragraph (3).

21           (b) DIESEL FUEL AND AVIATION FUEL.—

22                   (1) DIESEL FUEL.—

23                           (A) IN GENERAL.—Paragraph (4) of sec-  
24                           tion 4091(b) (relating to rate of tax) is amend-  
25                           ed by striking “2.5 cents per gallon” and in-

1           serting “6.8 cents per gallon (4.3 cents per gal-  
2           lon on and after October 1, 1995)”.

3           (B) DIESEL FUEL DEFICIT REDUCTION  
4           RATE MADE PERMANENT.—Section 4091(b)(6)  
5           (relating to termination) is amended by striking  
6           subparagraph (D).

7           (2) AVIATION FUEL.—

8           (A) IN GENERAL.—Clause (ii) of section  
9           4091(b)(1)(A) (relating to rate of tax) is  
10          amended by inserting “and the aviation fuel  
11          deficit reduction rate” after “rate”.

12          (B) AVIATION FUEL DEFICIT REDUCTION  
13          RATE.—Subsection (b) of section 4091 is  
14          amended by redesignating paragraph (6) as  
15          paragraph (7) and by inserting after paragraph  
16          (5) the following new paragraph:

17          “(6) AVIATION FUEL DEFICIT REDUCTION  
18          RATE.—For purposes of paragraph (1), the aviation  
19          fuel deficit reduction rate is 4.3 cents per gallon.”

20          (C) NONGASOLINE IN NONCOMMERCIAL  
21          AVIATION.—Paragraph (1) of section 4041(c)  
22          (relating to noncommercial aviation) is amended  
23          by striking “of 17.5 cents a gallon upon” and  
24          inserting “at a rate equal to the sum of the Air-

1 port and Airway Trust Fund financing rate  
2 plus the aviation fuel deficit reduction rate on”.

3 (D) GASOLINE IN NONCOMMERCIAL AVIA-  
4 TION.—Paragraph (3) of section 4041(c) is  
5 amended to read as follows:

6 “(3) RATE OF TAX.—The rate of tax imposed  
7 by paragraph (2) on any gasoline is 1 cent.”

8 (3) CONFORMING AMENDMENTS.—

9 (A) Subparagraphs (A) and (B) of section  
10 4093(c)(2) are amended to read as follows:

11 “(A) NO REFUND OF CERTAIN TAXES ON  
12 FUEL USED IN DIESEL-POWERED TRAINS.—In  
13 the case of fuel sold for use in a diesel-powered  
14 train, paragraph (1) shall not apply to so much  
15 of the tax imposed by section 4091 as is attrib-  
16 utable to the Leaking Underground Storage  
17 Tank Trust Fund financing rate and the diesel  
18 fuel deficit reduction rate imposed under such  
19 section. The preceding sentence shall not apply  
20 in the case of fuel sold for exclusive use by a  
21 State or any political subdivision thereof.

22 “(B) NO REFUND OF CERTAIN TAXES ON  
23 FUEL USED IN AIRCRAFT.—In the case of fuel  
24 sold for use in any aircraft (except supplies for  
25 vessels or aircraft within the meaning of section

1           4221(d)(3)), paragraph (1) also shall not apply  
2           to so much of the tax imposed by section 4091  
3           as is attributable to the Leaking Underground  
4           Storage Tank Trust Fund financing rate and  
5           the aviation fuel deficit reduction rate imposed  
6           by such section. The preceding sentence shall  
7           not apply in the case of fuel sold for exclusive  
8           use by a State or any political subdivision  
9           thereof.”

10           (B) Section 4093(d) is amended by insert-  
11           ing “and the aviation fuel deficit reduction  
12           rate” after “rate”.

13           (c) SPECIAL FUELS.—Section 4041(m)(1)(A) is  
14           amended by striking “1.25 cents” and inserting “5.55  
15           cents (4.3 cents on and after October 1, 1995)”.

16           (d) FUEL USED IN COMMERCIAL TRANSPORTATION  
17           ON INLAND WATERWAYS.—

18           (1) IN GENERAL.—Section 4042(b)(1) (relating  
19           to amount of tax) is amended—

20           (A) by striking “and” at the end of sub-  
21           paragraph (A),

22           (B) by striking the period at the end of  
23           subparagraph (B) and inserting “, and”, and

24           (C) by adding at the end thereof the fol-  
25           lowing new subparagraph:

1 “(C) the deficit reduction rate.”

2 (2) RATE.—Section 4042(b)(2) (relating to  
3 rates) is amended by adding at the end the following  
4 new subparagraph:

5 “(C) The deficit reduction rate is 4.3 cents  
6 per gallon.”

7 (e) CONFORMING AMENDMENTS.—

8 (1) Section 6421(f) is amended—

9 (A) by striking subparagraph (B) of para-  
10 graph (2) and inserting the following:

11 “(B) in aviation which is not noncommer-  
12 cial aviation (as so defined) with respect to the  
13 tax imposed by section 4081 at the Leaking  
14 Underground Storage Tank Trust Fund financ-  
15 ing rate and at the deficit reduction rate to the  
16 extent such deficit reduction rate does not ex-  
17 ceed 4.3 cents per gallon.”, and

18 (B) by inserting “and at the deficit reduc-  
19 tion rate to the extent such deficit reduction  
20 rate does not exceed 4.3 cents per gallon” after  
21 “financing rate” in paragraph (3), and

22 (C) by inserting “AND DEFICIT REDUCTION  
23 TAX” after “TAX” in the heading for paragraph  
24 (3).

1           (2) Section 6427(l) is amended by striking  
2 paragraphs (3) and (4) and inserting the following  
3 new paragraphs:

4           “(3) NO REFUND OF CERTAIN TAXES ON FUEL  
5 USED IN DIESEL-POWERED TRAINS.—In the case of  
6 fuel used in a diesel-powered train, paragraph (1)  
7 shall not apply to so much of the tax imposed by  
8 section 4091 as is attributable to the Leaking Un-  
9 derground Storage Tank Trust Fund financing rate  
10 and the diesel fuel deficit reduction rate imposed by  
11 such section. The preceding sentence shall not apply  
12 in the case of fuel sold for exclusive use by a State  
13 or any political subdivision thereof.

14           “(4) NO REFUND OF CERTAIN TAXES ON FUEL  
15 USED IN AIRCRAFT.—In the case of fuel used in any  
16 aircraft (except supplies for vessels or aircraft within  
17 the meaning of section 4221(d)(3)), paragraph (1)  
18 also shall not apply to so much of the tax imposed  
19 by section 4091 as is attributable to the Leaking  
20 Underground Storage Tank Trust Fund financing  
21 rate and the aviation fuel deficit reduction rate im-  
22 posed by such section. The preceding sentence shall  
23 not apply in the case of fuel sold for exclusive use  
24 by a State or any political subdivision thereof.”

25           (3) Section 9502(b) is amended—

1 (A) by striking “subsections (c) and (e) of  
2 section 4041” in paragraph (1) and inserting  
3 “sections 4041(c)(1) (to the extent attributable  
4 to the Airport and Airway Trust Fund financ-  
5 ing rate), 4041(c)(2), and 4041(e)”, and

6 (B) by striking “the deficit reduction rate”  
7 in paragraph (2) and inserting “so much of the  
8 deficit reduction rate as exceeds 4.3 cents per  
9 gallon”.

10 (f) EFFECTIVE DATE.—The amendments made by  
11 this section shall take effect on October 1, 1993.

12 (g) FLOOR STOCKS TAXES.—

13 (1) IMPOSITION OF TAX.—In the case of gaso-  
14 line, diesel fuel, and aviation fuel on which tax was  
15 imposed under section 4081 or 4091 of the Internal  
16 Revenue Code of 1986 before October 1, 1993, and  
17 which is held on such date by any person, there is  
18 hereby imposed a floor stocks tax of 4.3 cents per  
19 gallon on such gasoline, diesel fuel, and aviation  
20 fuel.

21 (2) LIABILITY FOR TAX AND METHOD OF PAY-  
22 MENT.—

23 (A) LIABILITY FOR TAX.—A person hold-  
24 ing gasoline, diesel fuel, or aviation fuel on Oc-  
25 tober 1, 1993, to which the tax imposed by

1 paragraph (1) applies shall be liable for such  
2 tax.

3 (B) METHOD OF PAYMENT.—The tax im-  
4 posed by paragraph (1) shall be paid in such  
5 manner as the Secretary shall prescribe.

6 (C) TIME FOR PAYMENT.—The tax im-  
7 posed by paragraph (1) shall be paid on or be-  
8 fore November 30, 1993.

9 (3) DEFINITIONS.—For purposes of this sub-  
10 section—

11 (A) HELD BY A PERSON.—Gasoline, diesel  
12 fuel, and aviation fuel shall be considered as  
13 “held by a person” if title thereto has passed  
14 to such person (whether or not delivery to the  
15 person has been made).

16 (B) GASOLINE.—The term “gasoline” has  
17 the meaning given such term by section 4082 of  
18 such Code.

19 (C) DIESEL FUEL.—The term “diesel fuel”  
20 has the meaning given such term by section  
21 4092 of such Code.

22 (D) AVIATION FUEL.—The term “aviation  
23 fuel” has the meaning given such term by sec-  
24 tion 4092 of such Code.

1           (E) SECRETARY.—The term “Secretary”  
2           means the Secretary of the Treasury or his del-  
3           egate.

4           (4) EXCEPTION FOR EXEMPT USES.—The tax  
5           imposed by paragraph (1) shall not apply to gaso-  
6           line, diesel fuel, or aviation fuel held by any person  
7           exclusively for any use to the extent a credit or re-  
8           fund of the tax imposed by section 4081 or 4091 of  
9           such Code, as the case may be, is allowable for such  
10          use.

11          (5) EXCEPTION FOR FUEL HELD IN VEHICLE  
12          TAX.—No tax shall be imposed by paragraph (1) on  
13          gasoline or diesel fuel held in the tank of a motor  
14          vehicle or motorboat.

15          (6) EXCEPTION FOR CERTAIN AMOUNTS OF  
16          FUEL.—

17                (A) IN GENERAL.—No tax shall be im-  
18                posed by paragraph (1)—

19                    (i) on gasoline held on October 1,  
20                    1993, by any person if the aggregate  
21                    amount of gasoline held by such person on  
22                    such date does not exceed 4,000 gallons,  
23                    and

24                    (ii) on diesel fuel or aviation fuel held  
25                    on October 1, 1993, by any person if the

1           aggregate amount of diesel fuel or aviation  
2           fuel held by such person on such date does  
3           not exceed 2,000 gallons.

4           The preceding sentence shall apply only if such  
5           person submits to the Secretary (at the time  
6           and in the manner required by the Secretary)  
7           such information as the Secretary shall require  
8           for purposes of this paragraph.

9           (B) EXEMPT FUEL.—For purposes of sub-  
10          paragraph (A), there shall not be taken into ac-  
11          count fuel held by any person which is exempt  
12          from the tax imposed by paragraph (1) by rea-  
13          son of paragraph (4) or (5).

14          (C) CONTROLLED GROUPS.—For purposes  
15          of this paragraph—

16                 (i) CORPORATIONS.—

17                         (I) IN GENERAL.—All persons  
18                         treated as a controlled group shall be  
19                         treated as 1 person.

20                         (II) CONTROLLED GROUP.—The  
21                         term “controlled group” has the  
22                         meaning given to such term by sub-  
23                         section (a) of section 1563 of such  
24                         Code; except that for such purposes  
25                         the phrase “more than 50 percent”

1 shall be substituted for the phrase “at  
2 least 80 percent” each place it ap-  
3 pears in such subsection.

4 (ii) NONINCORPORATED PERSONS  
5 UNDER COMMON CONTROL.—Under regula-  
6 tions prescribed by the Secretary, prin-  
7 ciples similar to the principles of clause (i)  
8 shall apply to a group of persons under  
9 common control where 1 or more of such  
10 persons is not a corporation.

11 (7) OTHER LAW APPLICABLE.—All provisions of  
12 law, including penalties, applicable with respect to  
13 the taxes imposed by section 4081 of such Code in  
14 the case of gasoline and section 4091 of such Code  
15 in the case of diesel fuel shall, insofar as applicable  
16 and not inconsistent with the provisions of this sub-  
17 section, apply with respect to the floor stock taxes  
18 imposed by paragraph (1) to the same extent as if  
19 such taxes were imposed by such section 4081 or  
20 4091.

21 **Subpart B—Modifications to Tax on Diesel Fuel**

22 **SEC. 8242. MODIFICATIONS TO TAX ON DIESEL FUEL.**

23 (a) IN GENERAL.—Subparts A and B of part III of  
24 subchapter A of chapter 32 (relating to manufacturers ex-

1 cise taxes), as amended by subpart A, are amended to read  
 2 as follows:

3 **“Subpart A—Gasoline and Diesel Fuel**

“Sec. 4081. Imposition of tax.

“Sec. 4082. Exemptions for diesel fuel.

“Sec. 4083. Definitions and special rule.

“Sec. 4084. Cross references.

4 **“SEC. 4081. IMPOSITION OF TAX.**

5 “(a) TAX IMPOSED.—

6 “(1) TAX ON REMOVAL, ENTRY, OR SALE.—

7 “(A) IN GENERAL.—There is hereby im-  
 8 posed a tax at the rate specified in paragraph  
 9 (2) on—

10 “(i) the removal of a taxable fuel from  
 11 any refinery,

12 “(ii) the removal of a taxable fuel  
 13 from any terminal,

14 “(iii) the entry into the United States  
 15 of any taxable fuel for consumption, use,  
 16 or warehousing, and

17 “(iv) the sale of a taxable fuel to any  
 18 person who is not registered under section  
 19 4101 unless there was a prior taxable re-  
 20 moval or entry of such fuel under clause  
 21 (i), (ii), or (iii).

22 “(B) EXEMPTION FOR BULK TRANSFERS  
 23 TO REGISTERED TERMINALS OR REFINERIES.—

1 The tax imposed by this paragraph shall not  
2 apply to any removal or entry of a taxable fuel  
3 transferred in bulk to a terminal or refinery if  
4 the person removing or entering the taxable fuel  
5 and the operator of such terminal or refinery  
6 are registered under section 4101.

7 “(2) RATES OF TAX.—

8 “(A) IN GENERAL.—The rate of the tax  
9 imposed by this section is the sum of—

10 “(i) the Highway Trust Fund financ-  
11 ing rate,

12 “(ii) the Leaking Underground Stor-  
13 age Tank Trust Fund financing rate, and

14 “(iii) the deficit reduction rate.

15 “(B) RATES.—For purposes of subpara-  
16 graph (A)—

17 “(i) the Highway Trust Fund financ-  
18 ing rate is—

19 “(I) 11.5 cents per gallon in the  
20 case of gasoline, and

21 “(II) 17.5 cents per gallon in the  
22 case of diesel fuel,

23 “(ii) the Leaking Underground Stor-  
24 age Tank Trust Fund financing rate is 0.1  
25 cent per gallon, and

1                   “(iii) the deficit reduction rate is 6.8  
2                   cents per gallon (4.3 cents per gallon on  
3                   and after October 1, 1995).

4           “(b) TREATMENT OF REMOVAL OR SUBSEQUENT  
5 SALE BY BLENDER.—

6                   “(1) IN GENERAL.—There is hereby imposed a  
7                   tax at the rate specified in subsection (a) on taxable  
8                   fuel removed or sold by the blender thereof.

9                   “(2) CREDIT FOR TAX PREVIOUSLY PAID.—If—

10                   “(A) tax is imposed on the removal or sale  
11                   of a taxable fuel by reason of paragraph (1),  
12                   and

13                   “(B) the blender establishes the amount of  
14                   the tax paid with respect to such fuel by reason  
15                   of subsection (a),

16                   the amount of the tax so paid shall be allowed as a  
17                   credit against the tax imposed by reason of para-  
18                   graph (1).

19           “(c) TAXABLE FUELS MIXED WITH ALCOHOL AT  
20 REFINERY, ETC.—

21                   “(1) REDUCED RATES.—

22                   “(A) IN GENERAL.—Under regulations  
23                   prescribed by the Secretary, subsection (a) shall  
24                   be applied by substituting rates which are the  
25                   applicable fraction of the otherwise applicable

1 rates in the case of the removal or entry of any  
2 taxable fuel for use in producing at the time of  
3 such removal or entry a qualified alcohol mix-  
4 ture. Subject to such terms and conditions as  
5 the Secretary may prescribe (including the ap-  
6 plication of section 4101), the treatment under  
7 the preceding sentence also shall apply to use in  
8 producing such a mixture after the time of such  
9 removal or entry.

10 “(B) APPLICABLE FRACTION.—For pur-  
11 poses of subparagraph (A), the applicable frac-  
12 tion is—

13 “(i) in the case of a qualified alcohol  
14 mixture which contains gasoline, the frac-  
15 tion the numerator of which is 10 and the  
16 denominator of which is—

17 “(I) 9 in the case of 10 percent  
18 gasohol,

19 “(II) 9.23 in the case of 7.7 per-  
20 cent gasohol, and

21 “(III) 9.43 in the case of 5.7 per-  
22 cent gasohol, and

23 “(ii) in the case of a qualified alcohol  
24 mixture which does not contain gasoline,  
25  $\frac{10}{9}$ .

1           “(2) LATER SEPARATION OF FUEL FROM  
2 QUALIFIED ALCOHOL MIXTURE.—If any person sep-  
3 arates the taxable fuel from a qualified alcohol mix-  
4 ture on which tax was imposed under subsection (a)  
5 at the otherwise applicable Highway Trust Fund fi-  
6 nancing rate (or its equivalent) by reason of this  
7 subsection (or with respect to which a credit or pay-  
8 ment was allowed or made by reason of section  
9 6427(f)(1)), such person shall be treated as the re-  
10 finer of such taxable fuel. The amount of tax im-  
11 posed on any removal of such fuel by such person  
12 shall be reduced by the amount of tax imposed (and  
13 not credited or refunded) on any prior removal or  
14 entry of such fuel.

15           “(3) ALCOHOL; QUALIFIED ALCOHOL MIX-  
16 TURE.—For purposes of this subsection—

17           “(A) ALCOHOL.—The term ‘alcohol’ in-  
18 cludes methanol and ethanol but does not in-  
19 clude alcohol produced from petroleum, natural  
20 gas, or coal (including peat). Such term does  
21 not include alcohol with a proof of less than  
22 190 (determined without regard to any added  
23 denaturants).

24           “(B) QUALIFIED ALCOHOL MIXTURE.—  
25 The term ‘qualified alcohol mixture’ means—

1           “(i) any mixture of gasoline with alco-  
2           hol if at least 5.7 percent of such mixture  
3           is alcohol, and

4           “(ii) any mixture of diesel fuel with  
5           alcohol if at least 10 percent of such mix-  
6           ture is alcohol.

7           “(4) OTHERWISE APPLICABLE RATES FOR GAS-  
8           OLINE MIXTURES.—For purposes of this sub-  
9           section—

10           “(A) IN GENERAL.—In the case of the  
11           Highway Trust Fund financing rate, the other-  
12           wise applicable rate for gasoline in a qualified  
13           alcohol mixture is—

14           “(i) 6.1 cents a gallon for 10 percent  
15           gasohol,

16           “(ii) 7.342 cents a gallon for 7.7 per-  
17           cent gasohol, and

18           “(iii) 8.422 cents a gallon for 5.7 per-  
19           cent gasohol.

20           In the case of a mixture none of the alcohol in  
21           which consists of ethanol, clauses (i), (ii), and  
22           (iii) shall be applied by substituting ‘5.5 cents’  
23           for ‘6.1 cents’, ‘6.88 cents’ for ‘7.342 cents’,  
24           and ‘8.08 cents’ for ‘8.422 cents’.

1           “(B) 10 PERCENT GASOHOL.—The term  
2           ‘10 percent gasohol’ means any mixture of gas-  
3           oline with alcohol if at least 10 percent of such  
4           mixture is alcohol.

5           “(C) 7.7 PERCENT GASOHOL.—The term  
6           ‘7.7 percent gasohol’ means any mixture of gas-  
7           oline with alcohol if at least 7.7 percent, but  
8           not 10 percent or more, of such mixture is  
9           alcohol.

10           “(D) 5.7 PERCENT GASOHOL.—The term  
11           ‘5.7 percent gasohol’ means any mixture of gas-  
12           oline with alcohol if at least 5.7 percent, but  
13           not 7.7 percent or more, of such mixture is al-  
14           cohol.

15           “(5) OTHERWISE APPLICABLE RATES FOR DIE-  
16           SEL FUEL MIXTURES.—For purposes of this sub-  
17           section, in the case of the Highway Trust Fund fi-  
18           nancing rate, the otherwise applicable rate for diesel  
19           fuel in a qualified alcohol mixture is 12.1 cents per  
20           gallon (11.5 cents per gallon in the case of a quali-  
21           fied alcohol mixture none of the alcohol in which  
22           consists of ethanol).

23           “(6) TERMINATION.—Paragraph (1) shall not  
24           apply to any removal or sale after September 30,  
25           2000.

1 “(d) TERMINATION.—

2 “(1) HIGHWAY TRUST FUND FINANCING  
3 RATE.—On and after October 1, 1999, the Highway  
4 Trust Fund financing rate under subsection (a)(2)  
5 shall not apply.

6 “(2) LEAKING UNDERGROUND STORAGE TANK  
7 TRUST FUND FINANCING RATE.—The Leaking Un-  
8 derground Storage Tank Trust Fund financing rate  
9 under subsection (a)(2) shall not apply after Decem-  
10 ber 31, 1995.

11 “(e) REFUNDS IN CERTAIN CASES.—Under regula-  
12 tions prescribed by the Secretary, if any person who paid  
13 the tax imposed by this section with respect to any taxable  
14 fuel establishes to the satisfaction of the Secretary that  
15 a prior tax was paid (and not credited or refunded) with  
16 respect to such taxable fuel, then an amount equal to the  
17 tax paid by such person shall be allowed as a refund (with-  
18 out interest) to such person in the same manner as if it  
19 were an overpayment of tax imposed by this section.

20 **“SEC. 4082. EXEMPTIONS FOR DIESEL FUEL.**

21 “(a) IN GENERAL.—Except as provided in subsection  
22 (d), the tax imposed by section 4081 shall not apply to  
23 diesel fuel—

24 “(1) which the Secretary determines is destined  
25 for a nontaxable use, and

1           “(2) which is indelibly dyed in accordance with  
2           regulations which the Secretary shall prescribe.

3 Such regulations shall allow an individual choice of dye  
4 color approved by the Secretary or chosen from any list  
5 of approved dye colors that the Secretary may publish.

6           “(b) NONTAXABLE USE.—For purposes of this sec-  
7 tion, the term ‘nontaxable use’ means—

8           “(1) any use which is exempt from the tax im-  
9           posed by section 4041(a)(1) other than by reason of  
10          the imposition of tax on any sale thereof,

11          “(2) any use in a train, and

12          “(3) any use described in section 6427(b)(1).

13           “(c) REGULATIONS.—The Secretary shall prescribe  
14 such regulations as may be necessary to carry out this  
15 section, including regulations requiring the conspicuous la-  
16 beling of retail diesel fuel pumps and other delivery facili-  
17 ties to assure that persons are aware of which fuel is avail-  
18 able only for nontaxable uses.

19           “(d) CROSS REFERENCE.—

**“For tax on train, motorboat, and certain bus uses  
of fuel purchased tax-free, see section 4041(a)(1).**

20 **“SEC. 4083. DEFINITIONS AND SPECIAL RULE.**

21           “(a) TAXABLE FUEL.—For purposes of this sub-  
22 part—

23           “(1) IN GENERAL.—The term ‘taxable fuel’  
24           means—

1           “(A) gasoline, and

2           “(B) diesel fuel.

3           “(2) GASOLINE.—The term ‘gasoline’ includes,  
4 to the extent prescribed in regulations—

5           “(A) gasoline blend stocks, and

6           “(B) products commonly used as additives  
7 in gasoline.

8 For purposes of subparagraph (A), the term ‘gasoline  
9 blend stock’ means any petroleum product component  
10 of gasoline.

11          “(3) DIESEL FUEL.—The term ‘diesel fuel’  
12 means any liquid (other than gasoline) which is suitable  
13 for use as a fuel in a diesel-powered highway  
14 vehicle, a diesel-powered train, or a diesel-powered  
15 boat.

16          “(b) CERTAIN USES DEFINED AS REMOVAL.—If any  
17 person uses taxable fuel (other than in the production of  
18 gasoline, diesel fuel, or special fuels referred to in section  
19 4041), such use shall for the purposes of this chapter be  
20 considered a removal.

1 **“SEC. 4084. CROSS REFERENCES.**

**“(1) For provisions to relieve farmers from excise tax in the case of gasoline used on the farm for farming purposes, see section 6420.**

**“(2) For provisions to relieve purchasers of gasoline from excise tax in the case of gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes, see section 6421.**

**“(3) For provisions to relieve purchasers from excise tax in the case of taxable fuel not used for taxable purposes, see section 6427.**

2 **“Subpart B—Aviation Fuel**

“Sec. 4091. Imposition of tax.

“Sec. 4092. Exemptions.

“Sec. 4093. Definitions.

3 **“SEC. 4091. IMPOSITION OF TAX.**4 **“(a) TAX ON SALE.—**

5 **“(1) IN GENERAL.—**There is hereby imposed a  
6 tax on the sale of aviation fuel by the producer or  
7 the importer thereof or by any producer of aviation  
8 fuel.

9 **“(2) USE TREATED AS SALE.—**For purposes of  
10 paragraph (1), if any producer uses aviation fuel  
11 (other than for a nontaxable use as defined in sec-  
12 tion 6427(l)(2)(B)) on which no tax has been im-  
13 posed under such paragraph, then such use shall be  
14 considered a sale.

15 **“(b) RATE OF TAX.—**

16 **“(1) IN GENERAL.—**The rate of the tax im-  
17 posed by subsection (a) shall be the sum of—

1           “(A) the Airport and Airway Trust Fund  
2 financing rate,

3           “(B) the Leaking Underground Storage  
4 Tank Trust Fund financing rate, and

5           “(C) the deficit reduction rate.

6           “(2) AIRPORT AND AIRWAY TRUST FUND FI-  
7 NANCING RATE.—For purposes of paragraph (1),  
8 the Airport and Airway Trust Fund financing rate  
9 is 17.5 cents per gallon.

10           “(3) LEAKING UNDERGROUND STORAGE TANK  
11 TRUST FUND FINANCING RATE.—For purposes of  
12 paragraph (1), the Leaking Underground Storage  
13 Tank Trust Fund financing rate is 0.1 cent per  
14 gallon.

15           “(4) DEFICIT REDUCTION RATE.—For purposes  
16 of paragraph (1), the deficit reduction rate is 4.3  
17 cents per gallon.

18           “(5) TERMINATION OF RATES.—

19           “(A) The Airport and Airway Trust Fund  
20 financing rate shall not apply on and after Jan-  
21 uary 1, 1996.

22           “(B) The Leaking Underground Storage  
23 Tank Fund financing rate shall not apply dur-  
24 ing any period during which the Leaking Un-

1           derground Storage Tank Trust Fund financing  
2           rate under section 4081 does not apply.

3           “(c) REDUCED RATE OF TAX FOR AVIATION FUEL  
4 IN ALCOHOL MIXTURE, ETC.—

5           “(1) IN GENERAL.—The Airport and Airway  
6 Trust Fund financing rate shall be—

7           “(A) 4.1 cents per gallon in the case of the  
8 sale of any mixture of aviation fuel if—

9           “(i) at least 10 percent of such mix-  
10 ture consists of alcohol (as defined in sec-  
11 tion 4081(c)(3)), and

12           “(ii) the aviation fuel in such mixture  
13 was not taxed under subparagraph (B),  
14 and

15           “(B) 4.56 cents per gallon in the case of  
16 the sale of aviation fuel for use (at the time of  
17 such sale) in producing a mixture described in  
18 subparagraph (A).

19           In the case of a sale described in subparagraph (B),  
20 the Leaking Underground Storage Tank Trust Fund  
21 financing rate shall be  $\frac{1}{9}$  cent per gallon and the  
22 deficit reduction rate shall be  $\frac{10}{9}$  of such rate.

23           “(2) LATER SEPARATION.—If any person sepa-  
24 rates the aviation fuel from a mixture of the aviation  
25 fuel and alcohol on which tax was imposed under

1 subsection (a) at the Airport and Airway Trust  
2 Fund financing rate equivalent to 4.1 cents per gal-  
3 lon by reason of this subsection (or with respect to  
4 which a credit or payment was allowed or made by  
5 reason of section 6427(f)(1)), such person shall be  
6 treated as the producer of such aviation fuel. The  
7 amount of tax imposed on any sale of such aviation  
8 fuel by such person shall be reduced by the amount  
9 of tax imposed (and not credited or refunded) on  
10 any prior sale of such fuel.

11 “(3) TERMINATION.—Paragraph (1) shall not  
12 apply to any sale after September 30, 2000.

13 “(d) LOWER RATES OF TAX ON ALCOHOL MIXTURES  
14 NOT MADE FROM ETHANOL.—In the case of a mixture  
15 described in subsection (c)(1)(A)(i) none of the alcohol in  
16 which is ethanol—

17 “(1) subsections (c)(1)(A) and (c)(2) shall each  
18 be applied by substituting rates which are 0.6 cents  
19 less than the rates contained therein, and

20 “(2) subsection (c)(1)(B) shall be applied by  
21 substituting rates which are  $\frac{10}{9}$  of the rates deter-  
22 mined under paragraph (1).

23 **“SEC. 4092. EXEMPTIONS.**

24 “(a) NONTAXABLE USES.—The Airport and Airway  
25 Trust Fund financing rate under section 4091 shall not

1 apply to aviation fuel sold by a producer or importer for  
2 use by the purchaser in a nontaxable use (as defined in  
3 section 6427(l)(2)(B)).

4 “(b) SALES TO PRODUCER.—Under regulations pre-  
5 scribed by the Secretary, the tax imposed by section 4091  
6 shall not apply to aviation fuel sold to a producer of such  
7 fuel.

8 “(c) SUPPLIES FOR VESSELS AND AIRCRAFT.—The  
9 Leaking Underground Storage Tank Trust Fund financ-  
10 ing rate and the deficit reduction rate under section 4091  
11 shall not apply to aviation fuel sold for use or used as  
12 supplies for vessels or aircraft (within the meaning of sec-  
13 tion 4221(d)(3)).

14 **“SEC. 4093. DEFINITIONS.**

15 “(a) AVIATION FUEL.—For purposes of this subpart,  
16 the term ‘aviation fuel’ means any liquid (other than any  
17 product taxable under section 4081) which is suitable for  
18 use as a fuel in an aircraft.

19 “(b) PRODUCER.—For purposes of this subpart—

20 “(1) CERTAIN PERSONS TREATED AS PRODUC-  
21 ERS.—

22 “(A) IN GENERAL.—The term ‘producer’  
23 includes any person described in subparagraph  
24 (B) and registered under section 4101 with re-  
25 spect to the tax imposed by section 4091.

1           “(B) PERSONS DESCRIBED.—A person is  
2 described in this subparagraph if such person  
3 is—

4           “(i) a refiner, blender, or wholesale  
5 distributor of aviation fuel, or

6           “(ii) a dealer selling aviation fuel ex-  
7 clusively to producers of aviation fuel.

8           “(C) REDUCED RATE PURCHASERS TREAT-  
9 ED AS PRODUCERS.—Any person to whom avia-  
10 tion fuel is sold at a reduced rate under this  
11 subpart shall be treated as the producer of such  
12 fuel.

13           “(2) WHOLESALE DISTRIBUTOR.—For purposes  
14 of paragraph (1), the term ‘wholesale distributor’ in-  
15 cludes any person who sells aviation fuel to produc-  
16 ers, retailers, or to users who purchase in bulk quan-  
17 tities and deliver into bulk storage tanks. Such term  
18 does not include any person who (excluding the term  
19 ‘wholesale distributor’ from paragraph (1)) is a pro-  
20 ducer or importer.”

21           (b) CIVIL PENALTY FOR USING REDUCED-RATE  
22 FUEL FOR TAXABLE USE.—

23           (1) IN GENERAL.—Part I of subchapter B of  
24 chapter 68 (relating to assessable penalties) is

1 amended by adding at the end thereof the following  
2 new section:

3 **“SEC. 6714. DYED FUEL SOLD FOR USE OR USED IN TAX-**  
4 **ABLE USE.**

5 “(a) IMPOSITION OF PENALTY.—If any dyed fuel—

6 “(1) is sold or held for sale by any person for  
7 any use which such person knows or has reason to  
8 know is not a reduced-tax use of such fuel, or

9 “(2) is used by any person for a use other than  
10 a reduced-tax use and such person knew, or had rea-  
11 son to know, that such fuel was so dyed,

12 then, in addition to the tax, such person shall pay a pen-  
13 alty on such sale or use.

14 “(b) AMOUNT OF PENALTY.—The amount of the  
15 penalty under subsection (a) on any sale or use shall be  
16 the greater of—

17 “(1) \$1,000, or

18 “(2) an amount equal to twice the excess of the  
19 aggregate taxes which should have been imposed  
20 under section 4081 on the fuel so sold or used over  
21 the prior taxes (if any) imposed on such fuel under  
22 such section which have not been credited or re-  
23 funded.

24 “(c) DEFINITIONS.—For purposes of this section—

1           “(1) DYED FUEL.—The term ‘dyed fuel’ means  
2 diesel fuel dyed in accordance with section 4082.

3           “(2) REDUCED-TAX USE.—The term ‘reduced-  
4 tax use’ means, with respect to any fuel, the use for  
5 which such fuel was dyed.”

6           (2) CLERICAL AMENDMENT.—The table of sec-  
7 tions for such part I is amended by adding at the  
8 end thereof the following new item:

          “Sec. 6714. Dyed fuel sold for use or used in taxable use.”

9           (c) REGISTERED VENDORS TO ADMINISTER CLAIMS  
10 FOR REFUND OF DIESEL FUEL.—Section 6427(l) (relat-  
11 ing to nontaxable uses of diesel fuel and aviation fuel) is  
12 amended by adding at the end the following new para-  
13 graph:

14           “(5) REGISTERED VENDORS TO ADMINISTER  
15 CLAIMS FOR REFUND OF DIESEL FUEL SOLD TO  
16 FARMERS AND STATE AND LOCAL GOVERNMENTS.—

17           “(A) IN GENERAL.—Paragraph (1) shall  
18 not apply to the ultimate purchaser of undyed  
19 diesel fuel used on a farm for farming purposes  
20 (within the meaning of section 6420(c)) or for  
21 the exclusive use of a State or local govern-  
22 ment.

23           “(B) PAYMENT TO ULTIMATE, REG-  
24 ISTERED VENDOR.—The amount which would  
25 have otherwise been paid under paragraph (1)

1 (without regard to subparagraph (A)) shall be  
2 paid to the ultimate vendor of such fuel, if such  
3 vendor—

4 “(i) is registered under section 4101,  
5 and

6 “(ii) meets the requirements of sec-  
7 tion 6416(a).”

8 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

9 (1) Subsection (c) of section 40 is amended by  
10 striking “, section 4081(c), or section 4091(c)” and  
11 inserting “or section 4081(c)”.

12 (2) Subsection (a) of section 4101 is amended  
13 by striking “4081” and inserting “4041(a)(1),  
14 4081,”.

15 (3) Section 4102 is amended by striking “gasoline”  
16 and inserting “any taxable fuel (as defined in  
17 section 4083)”.

18 (4) Paragraph (1) of section 4041(a), as  
19 amended by subtitle A, is amended to read as fol-  
20 lows:

21 “(1) TAX ON DIESEL FUEL IN CERTAIN  
22 CASES.—

23 “(A) IN GENERAL.—There is hereby im-  
24 posed a tax on any liquid other than gasoline  
25 (as defined in section 4083)—

1           “(i) sold by any person to an owner,  
2           lessee, or other operator of a diesel-pow-  
3           ered highway vehicle, a diesel-powered  
4           train, or a diesel-powered boat for use as  
5           a fuel in such vehicle, train, or boat, or

6           “(ii) used by any person as a fuel in  
7           a diesel-powered highway vehicle, a diesel-  
8           powered train, or a diesel-powered boat un-  
9           less there was a taxable sale of such fuel  
10          under clause (i).

11          “(B) EXEMPTION FOR PREVIOUSLY TAXED  
12          FUEL.—No tax shall be imposed by this para-  
13          graph on the sale or use of diesel fuel if there  
14          was a taxable removal of such fuel under sec-  
15          tion 4081 and the tax thereon was not credited  
16          or refunded.

17          “(C) RATE OF TAX.—

18          “(i) IN GENERAL.—Except as other-  
19          wise provided in this subparagraph, the  
20          rate of the tax imposed by this paragraph  
21          shall be the sum of the Highway Trust  
22          Fund financing rate on diesel fuel and the  
23          deficit reduction rate in effect under sec-  
24          tion 4081 at the time of such sale or use.

1                   “(ii) CERTAIN RATES NOT TO APPLY  
2 TO TRAINS.—

3                   “(I) HIGHWAY TRUST FUND FI-  
4 NANCING RATE.—The Highway Trust  
5 Fund financing rate shall not apply to  
6 any sale for use, or use, of fuel in a  
7 train.

8                   “(II) DEFICIT REDUCTION  
9 RATE.—The deficit reduction rate  
10 shall not apply to any sale for use, or  
11 use, of fuel in a train if such fuel is  
12 used by a State or any political sub-  
13 division thereof

14                   “(iii) CERTAIN BUS USES.—If the lim-  
15 itation in section 6427(b)(2)(A) applies to  
16 fuel sold for use or used in an automobile  
17 bus, the Highway Trust Fund financing  
18 rate shall be 3 cents per gallon and so  
19 much of the deficit reduction rate as ex-  
20 ceeds 4.3 cents per gallon shall not apply.”

21                   (5) Paragraph (2) of section 4041(a), as  
22 amended by subtitle A, is amended by striking “or  
23 paragraph (1) of this subsection” and by inserting  
24 “on gasoline” after “Highway Trust Fund financing  
25 rate”.

1           (6) Paragraph (1) of section 4041(c), as  
2 amended by subpart A, is amended by striking “the  
3 aviation fuel deficit reduction rate” and inserting  
4 “the deficit reduction rate imposed under section  
5 4091 on”.

6           (7) Paragraph (2) of section 4041(c) is amend-  
7 ed by striking “any product taxable under section  
8 4081” and inserting “gasoline (as defined in section  
9 4083)”.

10          (8) Paragraph (2) of section 4041(d) is amend-  
11 ed—

12           (A) by striking “(other than a product tax-  
13 able under section 4081)” and inserting “(other  
14 than gasoline (as defined in section 4083))”,  
15 and

16           (B) by striking “section 4091” and insert-  
17 ing “section 4081”.

18          (9) Paragraph (3) of section 4041(d) is amend-  
19 ed by striking “(other than any product taxable  
20 under section 4081)” and inserting “(other than  
21 gasoline (as defined in section 4083))”.

22          (10) Subparagraph (A) of section 4041(k)(1) is  
23 amended by striking “sections 4081(c) and 4091(c),  
24 as the case may be” and inserting “section  
25 4081(c)”.

1           (11) Subparagraph (B) of section 4041(m)(1)  
2 is amended by striking “section 4091(d)(1)” and in-  
3 sserting “section 4091(c)(1)”.

4           (12) Section 6206 is amended by striking  
5 “4041 or 4091” and inserting “4041, 4081, or  
6 4091”.

7           (13) The heading for subsection (f) of section  
8 6302 is amended by inserting “AND DIESEL FUEL”  
9 after “GASOLINE”.

10           (14) Paragraph (1) of section 6412(a) is  
11 amended by striking “gasoline” each place it ap-  
12 pears (including the heading) and inserting “taxable  
13 fuel”.

14           (15)(A) Subparagraph (A) of section  
15 6416(a)(4) is amended by striking “product” each  
16 place it appears and inserting “gasoline”.

17           (B) Subparagraph (B) of section 6416(a)(4) is  
18 amended by striking all that follows “substituting”  
19 and inserting “‘any gasoline taxable under section  
20 4081’ for ‘aviation fuel’ therein).”

21           (16) The third sentence of section 6416(b)(2) is  
22 amended by inserting “any tax imposed under sec-  
23 tion 4081 on diesel fuel and” after “in the case of”.

1           (17) Sections 6420(c)(5) and 6421(e)(1) are  
2 each amended by striking “section 4082(b)” and in-  
3 sserting “section 4083(a)”.

4           (18) Section 6421(e)(2)(B)(iv), as added in  
5 subtitle A, is amended

6                 (A) by striking “4091” both places it ap-  
7 pears and inserting “4081”, and

8                 (B) by striking “diesel fuel deficit” in  
9 subclause (I) and inserting “deficit”.

10           (19) Subsection (b) of section 6427 is amend-  
11 ed—

12                 (A) by striking “if any fuel” in paragraph  
13 (1) and inserting “if any fuel other than gaso-  
14 line (as defined in section 4083(a))”, and

15                 (B) by striking “4091” each place it ap-  
16 pears and inserting “4081”.

17           (20)(A) Paragraph (1) of section 6427(f) is  
18 amended by striking “, 4091(c)(1)(A), or  
19 4091(d)(1)(A)” and inserting “or 4091(c)(1)(A)”.

20           (B) Paragraph (2) of section 6427(f) is amend-  
21 ed to read as follows:

22                 “(2) DEFINITIONS.—For purposes of paragraph  
23 (1)—

24                         “(A) REGULAR TAX RATE.—The term ‘reg-  
25 ular tax rate’ means—

1           “(i) in the case of gasoline or diesel  
2           fuel, the aggregate rate of tax imposed by  
3           section 4081 determined without regard to  
4           subsection (c) thereof, and

5           “(ii) in the case of aviation fuel, the  
6           aggregate rate of tax imposed by section  
7           4091 determined without regard to sub-  
8           section (c) thereof.

9           “(B) INCENTIVE TAX RATE.—The term  
10          ‘incentive tax rate’ means—

11           “(i) in the case of gasoline or diesel  
12           fuel, the aggregate rate of tax imposed by  
13           section 4081 with respect to fuel described  
14           in subsection (c)(1) thereof, and

15           “(ii) in the case of aviation fuel, the  
16           aggregate rate of tax imposed by section  
17           4091 with respect to fuel described in sub-  
18           section (c)(1)(B) thereof.”

19          (21) Subsection (h) of section 6427 is amended  
20          by striking “section 4082(b)” and inserting “section  
21          4083(a)(2)”.

22          (22) Paragraph (3) of section 6427(i) is amend-  
23          ed—

24           (A) by striking “GASOHOL” in the heading  
25          and inserting “ALCOHOL MIXTURE”, and

1 (B) by striking “gasoline used to produce  
2 gasohol (as defined in section 4081(c)(1))” in  
3 subparagraph (A) and inserting “gasoline or  
4 diesel fuel used to produce a qualified alcohol  
5 mixture (as defined in section 4081(c)(3))”.

6 (23) The heading of paragraph (4) of section  
7 6427(i) is amended by inserting “4081 OR” before  
8 “4091”.

9 (24) Subsection (l) of section 6427, as amended  
10 by subpart A, is amended to read as follows:

11 “(l) NONTAXABLE USES OF DIESEL FUEL AND AVIA-  
12 TION FUEL.—

13 “(1) IN GENERAL.—Except as provided in sub-  
14 section (k) and in paragraphs (3) and (4) of this  
15 subsection, if—

16 “(A) any diesel fuel on which tax has been  
17 imposed by section 4081, or

18 “(B) any aviation fuel on which tax has  
19 been imposed by section 4091,

20 is used by any person in a nontaxable use, the Sec-  
21 retary shall pay (without interest) to the ultimate  
22 purchaser of such fuel an amount equal to the ag-  
23 gregate amount of tax imposed on such fuel under  
24 section 4081 or 4091, as the case may be.

1           “(2) NONTAXABLE USE.—For purposes of this  
2 subsection, the term ‘nontaxable use’ means—

3           “(A) in the case of diesel fuel, any use  
4 which is exempt from the tax imposed by sec-  
5 tion 4041(a)(1) other than by reason of the im-  
6 position of tax on any sale thereof, and

7           “(B) in the case of aviation fuel, any use  
8 which is exempt from the tax imposed by sec-  
9 tion 4041(c)(1) other than by reason of the im-  
10 position of tax on any sale thereof.

11           “(3) NO REFUND OF CERTAIN TAXES ON FUEL  
12 USED IN DIESEL-POWERED TRAINS.—Fuel used in a  
13 diesel-powered train shall be treated as a nontaxable  
14 use for purposes of this section, except that para-  
15 graph (1) shall not apply to so much of the tax im-  
16 posed by section 4081 as is attributable to the Leak-  
17 ing Underground Storage Tank Trust Fund financ-  
18 ing rate and the deficit reduction rate imposed by  
19 such section, unless such fuel was used by a State  
20 or any political subdivision thereof.

21           “(4) NO REFUND OF CERTAIN TAXES ON FUELS  
22 USED IN AIRCRAFT.—In the case of fuel used in any  
23 aircraft (other than as supplies for vessels or air-  
24 craft, within the meaning of section 4221(d)(3)),  
25 paragraph (1) also shall not apply to so much of the

1 tax imposed by section 4091 as is attributable to the  
2 Leaking Underground Storage Tank Trust Fund fi-  
3 nancing rate and the deficit reduction rate imposed  
4 by such section. The preceding sentence shall not  
5 apply if such fuel was used by a State or any politi-  
6 cal subdivision thereof.”

7 (25) Paragraph (1) of section 9503(b) is  
8 amended—

9 (A) by striking “gasoline,” in subpara-  
10 graph (E) and inserting “gasoline and diesel  
11 fuel), and”,

12 (B) by striking subparagraph (F), and

13 (C) by redesignating subparagraph (G) as  
14 subparagraph (F).

15 (26)(A) Subparagraph (B) of section  
16 9503(b)(4) is amended by striking “, 4081, and  
17 4091” and inserting “and 4081”.

18 (B) Subparagraph (C) of section 9503(b)(4), as  
19 amended by subtitle A, is amended by striking  
20 “4091” and inserting “4081”.

21 (27) Subparagraph (D) of section 9503(c)(6) is  
22 amended by striking “, 4081, and 4091” and insert-  
23 ing “and 4081”.

24 (28) Paragraph (2) of section 9503(e) is  
25 amended—

1 (A) by striking “, 4081, and 4091” and in-  
2 serting “and 4081”, and

3 (B) by striking “, 4081, or 4091” and in-  
4 serting “or 4081”.

5 (29) Subsection (b) of section 9508 is amend-  
6 ed—

7 (A) by inserting “and diesel fuel” after  
8 “gasoline” in paragraph (2),

9 (B) by striking “diesel fuel and” in para-  
10 graph (3), and

11 (C) by striking “4091” in the last sen-  
12 tence, as added by subtitle A, and inserting  
13 “4081”.

14 (30) The table of subparts for part III of sub-  
15 chapter A of chapter 32 is amended by striking the  
16 items relating to subparts A and B and inserting the  
17 following new items:

“Subpart A. Gasoline and diesel fuel.  
“Subpart B. Aviation fuel.”

18 (e) EFFECTIVE DATE.—The amendments made by  
19 this section shall take effect on January 1, 1994.

20 **SEC. 8243. FLOOR STOCKS TAX.**

21 (a) IN GENERAL.—There is hereby imposed a floor  
22 stocks tax on diesel fuel held by any person on January  
23 1, 1994, if—

1           (1) no tax was imposed on such fuel under sec-  
2           tion 4041(a) or 4091 of the Internal Revenue Code  
3           of 1986 as in effect on the day before the date of  
4           the enactment of this Act, and

5           (2) tax would have been imposed by section  
6           4081 of such Code, as amended by this Act, on any  
7           prior removal, entry, or sale of such fuel had such  
8           section 4081 applied to such fuel for periods before  
9           such date of enactment.

10          (b) RATE OF TAX.—The rate of the tax imposed by  
11         subsection (a) shall be the amount of tax which would be  
12         imposed under section 4081 of the Internal Revenue Code  
13         of 1986 if there were a taxable sale of such fuel on such  
14         date.

15          (c) LIABILITY AND PAYMENT OF TAX.—

16                 (1) LIABILITY FOR TAX.—A person holding the  
17                 diesel fuel on January 1, 1994, to which the tax im-  
18                 posed by this section applies shall be liable for such  
19                 tax.

20                 (2) METHOD OF PAYMENT.—The tax imposed  
21                 by this section shall be paid in such manner as the  
22                 Secretary shall prescribe.

23                 (3) TIME FOR PAYMENT.—The tax imposed by  
24                 this section shall be paid on or before July 31, 1994.

25          (d) DEFINITIONS.—For purposes of this section—

1           (1) DIESEL FUEL.—The term “diesel fuel” has  
2           the meaning given such term by section 4083(a) of  
3           such Code.

4           (2) SECRETARY.—The term “Secretary” means  
5           the Secretary of the Treasury or his delegate.

6           (e) EXCEPTIONS.—

7           (1) PERSONS ENTITLED TO CREDIT OR RE-  
8           FUND.—The tax imposed by this section shall not  
9           apply to fuel held by any person exclusively for any  
10          use to the extent a credit or refund of the tax im-  
11          posed by section 4081 is allowable for such use.

12          (2) COMPLIANCE WITH DYEING REQUIRED.—  
13          Paragraph (1) shall not apply to the holder of any  
14          fuel if the holder of such fuel fails to comply with  
15          any requirement imposed by the Secretary with re-  
16          spect to dyeing.

17          (f) OTHER LAWS APPLICABLE.—All provisions of  
18          law, including penalties, applicable with respect to the  
19          taxes imposed by section 4081 of such Code shall, insofar  
20          as applicable and not inconsistent with the provisions of  
21          this section, apply with respect to the floor stock taxes  
22          imposed by this section to the same extent as if such taxes  
23          were imposed by such section 4081.

1       **Subpart C—Extension of Motor Fuel Tax Rates;**  
2       **Increased Deposits Into Highway Trust Fund**

3       **SEC. 8244. EXTENSION OF MOTOR FUEL TAX RATES; IN-**  
4                   **CREASED DEPOSITS INTO HIGHWAY TRUST**  
5                   **FUND.**

6       (a) IN GENERAL.—Clause (i) of section  
7 4081(a)(2)(B), as amended by subpart B, is amended—  
8           (1) by striking “11.5 cents” and inserting “14  
9       cents”, and  
10          (2) by striking “17.5 cents” and inserting “20  
11       cents”.

12       (b) CONFORMING AMENDMENTS.—

13           (1) Subparagraph (A) of section 4081(c)(4), as  
14       so amended, is amended to read as follows:

15                   “(A) IN GENERAL.—In the case of the  
16                   Highway Trust Fund financing rate, the other-  
17                   wise applicable rate for gasoline in a qualified  
18                   alcohol mixture is—

19                           “(i) 8.6 cents a gallon for 10 percent  
20                           gasohol,

21                           “(ii) 9.842 cents a gallon for 7.7 per-  
22                           cent gasohol, and

23                           “(iii) 10.922 cents a gallon for 5.7  
24                           percent gasohol.

25       In the case of a mixture none of the alcohol in which  
26       consists of ethanol, clauses (i), (ii), and (iii) shall be

1 applied by substituting ‘8.0 cents’ for ‘8.6 cents’,  
2 ‘9.38 cents’ for ‘9.842 cents’, and ‘10.58 cents’ for  
3 ‘10.922’.”

4 (2) Paragraph (5) of section 4081(c), as so  
5 amended, is amended—

6 (A) by striking “12.1 cents” and inserting  
7 “14.6 cents”, and

8 (B) by striking “11.5 cents” and inserting  
9 “14.0”.

10 (3) Subparagraph (A) of section 4041(m)(1), as  
11 amended by subpart A, is amended to read as fol-  
12 lows:

13 “(A) under subsection (a)(2) the Highway  
14 Trust Fund financing shall be 7 cents per gal-  
15 lon and the deficit reduction rate shall be 4.3  
16 cents per gallon, and”.

17 (4) Clause (ii) of section 4041(a)(1)(C), as so  
18 amended, is amended—

19 (A) by striking “The Highway Trust Fund  
20 financing rate” and inserting “So much of the  
21 Highway Trust Fund financing rate as exceeds  
22 2.5 cents per gallon”, and

23 (B) by striking “HIGHWAY RATE” in the  
24 heading and inserting “PORTION OF HIGHWAY  
25 RATE”.

1 (5) Paragraph (4) of section 6427(l), as amend-  
2 ed by subpart B, is amended—

3 (A) by inserting “2.5 cents per gallon of  
4 the Highway Trust Fund financing rate and”  
5 after “attributable to”, and

6 (B) by striking “DEFICIT REDUCTION  
7 TAX” in the heading and inserting “PORTION  
8 OF TAX”.

9 (6) Subsection (b) of section 9503 is amended  
10 by adding at the end thereof the following new para-  
11 graph:

12 “(6) RETENTION OF CERTAIN TAXES IN GEN-  
13 ERAL FUND.—

14 “(A) IN GENERAL.—There shall not be  
15 taken into account under paragraphs (1) and  
16 (2)—

17 “(i) the tax imposed by section 4081  
18 on diesel fuel used in any train, and

19 “(ii) so much of the following taxes as  
20 are attributable to 2.5 cents of the High-  
21 way Trust Fund financing rate:

22 “(I) Motorboat fuel taxes (as de-  
23 fined in subsection (c)(4)(D)).

24 “(II) Small-engine fuel taxes (as  
25 defined in subsection (c)(5)(B)).

1                   “(III) Nonhighway recreational  
2                   fuel taxes (as defined in subsection  
3                   (c)(6)(D)).

4                   “(B) TRANSFERS FROM HIGHWAY TRUST  
5                   FUND.—For purposes of determining the  
6                   amount paid from the Highway Trust Fund  
7                   under paragraphs (4), (5), and (6) of sub-  
8                   section (c), the Highway Trust Fund financing  
9                   rates shall be treated as being 2.5 cents less  
10                  than the otherwise applicable rates.”

11                  (c) INCREASE IN DEPOSITS IN MASS TRANSIT AC-  
12                  COUNT.—Paragraph (2) of section 9503(e) is amended by  
13                  striking “1.5 cents” and inserting “2 cents”.

14                  (d) EFFECTIVE DATE.—The amendments made by  
15                  this section shall take effect October 1, 1995, but the  
16                  amendment made by subsection (c) shall apply only to  
17                  amounts attributable to taxes imposed on or after such  
18                  date.

19                               **PART V—COMPLIANCE PROVISIONS**

20                   **SEC. 8251. REPORTING REQUIRED FOR CERTAIN PAY-**  
21                               **MENTS TO CORPORATIONS.**

22                  (a) SECTION 6041.—Section 6041 (relating to infor-  
23                  mation at source) is amended by adding at the end thereof  
24                  the following new subsection:

1       “(f) SPECIAL RULES FOR PAYMENTS FOR SERV-  
2 ICES.—No payment for the performance of services shall  
3 be exempt from the requirements of this section merely  
4 because it is a payment to a corporation.”

5       (b) SECTION 6041A(a).—Subsection (a) of section  
6 6041A is amended by adding at the end thereof the follow-  
7 ing new sentence: “A payment shall not be exempt from  
8 the requirements of this subsection merely because it is  
9 a payment to a corporation.”.

10       (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to payments made after December  
12 31, 1993.

13 **SEC. 8252. MODIFICATIONS TO SUBSTANTIAL UNDERSTATE-**  
14 **MENT AND RETURN-PREPARER PENALTIES.**

15       (a) REASONABLE BASIS REQUIRED.—

16               (1) SUBSTANTIAL UNDERSTATEMENT PEN-  
17 ALTY.—Clause (ii) of section 6662(d)(2)(B) (relat-  
18 ing to reduction for understatement due to position  
19 of taxpayer or disclosed item) is amended to read as  
20 follows:

21                       “(ii) any item if—

22                               “(I) the relevant facts affecting  
23 the item’s tax treatment are ade-  
24 quately disclosed in the return or in a  
25 statement attached to the return, and

1                   “(II) there is a reasonable basis  
2                   for the tax treatment of such item by  
3                   the taxpayer.”

4                   (2) RETURN PREPARER PENALTY.—Paragraph  
5                   (3) of section 6694(a) (relating to understatement of  
6                   taxpayer’s liability by income tax return preparer) is  
7                   amended to read as follows:

8                   “(3) the requirements of subclauses (I) and (II)  
9                   of section 6662(d)(2)(B)(ii) are not satisfied with  
10                  respect to such position,”.

11                  (b) SPECIAL TAX SHELTER RULE.—Subclause (II)  
12                  of section 6662(d)(2)(C)(i) (relating to special rules for  
13                  tax shelters) is amended by inserting before the period at  
14                  the end thereof the following: “and the reasonably antici-  
15                  pated after-tax benefits from the taxpayer’s investment in  
16                  such shelter do not significantly exceed the reasonably an-  
17                  ticipated pre-tax economic profit or loss from such invest-  
18                  ment”.

19                  (c) REASONABLE CAUSE EXCEPTION.—Paragraph  
20                  (1) of section 6664(c) is amended by striking “this part”  
21                  and inserting “section 6662”.

22                  (d) EFFECTIVE DATE.—The amendments made by  
23                  this section shall apply to returns the due dates for which  
24                  (determined without regard to extensions) are after De-  
25                  cember 31, 1993.

1 **SEC. 8253. RETURNS RELATING TO THE CANCELLATION OF**  
2 **INDEBTEDNESS BY CERTAIN FINANCIAL EN-**  
3 **TITIES.**

4 (a) IN GENERAL.—Subpart B of part III of sub-  
5 chapter A of chapter 61 (relating to information concern-  
6 ing transactions with other persons) is amended by adding  
7 at the end thereof the following new section:

8 **“SEC. 6050P. RETURNS RELATING TO THE CANCELLATION**  
9 **OF INDEBTEDNESS BY CERTAIN FINANCIAL**  
10 **ENTITIES.**

11 “(a) IN GENERAL.—Any applicable financial entity  
12 which discharges (in whole or in part) the indebtedness  
13 of any person during any calendar year shall make a re-  
14 turn (at such time and in such form as the Secretary may  
15 by regulations prescribe) setting forth—

16 “(1) the name, address, and TIN of each per-  
17 son whose indebtedness was discharged during such  
18 calendar year,

19 “(2) the date of the discharge and the amount  
20 of the indebtedness discharged, and

21 “(3) such other information as the Secretary  
22 may prescribe.

23 “(b) EXCEPTION.—Subsection (a) shall not apply to  
24 any discharge of less than \$600.

25 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-  
26 poses of this section—

1           “(1) APPLICABLE FINANCIAL ENTITY.—The  
2 term ‘applicable financial entity’ means—

3           “(A) any financial institution described in  
4 section 581 or 591(a) and any credit union,

5           “(B) the Federal Deposit Insurance Cor-  
6 poration, the Resolution Trust Corporation, the  
7 National Credit Union Administration, and any  
8 other Federal executive agency (as defined in  
9 section 6050M), and any successor or subunit  
10 of any of the foregoing, and

11           “(C) any other corporation which is a di-  
12 rect or indirect subsidiary of an entity referred  
13 to in subparagraph (A) but only if, by virtue of  
14 being affiliated with such entity, such other cor-  
15 poration is subject to supervision and examina-  
16 tion by a Federal or State agency which regu-  
17 lates entities referred to in subparagraph (A).

18           “(2) GOVERNMENTAL UNITS.—In the case of  
19 an entity described in paragraph (1)(B), any return  
20 under this section shall be made by the officer or  
21 employee appropriately designated for the purpose of  
22 making such return.

23           “(d) STATEMENTS TO BE FURNISHED TO PERSONS  
24 WITH RESPECT TO WHOM INFORMATION IS REQUIRED  
25 TO BE FURNISHED.—Every applicable financial entity re-

1 quired to make a return under subsection (a) shall furnish  
2 to each person whose name is required to be set forth in  
3 such return a written statement showing—

4 “(1) the name and address of the entity re-  
5 quired to make such return, and

6 “(2) the information required to be shown on  
7 the return with respect to such person.

8 The written statement required under the preceding sen-  
9 tence shall be furnished to the person on or before Janu-  
10 ary 31 of the year following the calendar year for which  
11 the return under subsection (a) was made.”

12 (b) PENALTIES.—

13 (1) RETURNS.—Subparagraph (B) of section  
14 6724(d)(1) is amended by redesignating clauses  
15 (viii) through (xv) as clauses (ix) through (xvi), re-  
16 spectively, and by inserting after clause (vii) the fol-  
17 lowing new clause:

18 “(viii) section 6050P (relating to re-  
19 turns relating to the cancellation of indebt-  
20 edness by certain financial entities),”.

21 (2) STATEMENTS.—Paragraph (2) of section  
22 6724(d) is amended by redesignating subparagraphs  
23 (P) through (S) as subparagraphs (Q) through (T),  
24 respectively, and by inserting after subparagraph  
25 (O) the following new subparagraph:

1           “(P) section 6050P(d) (relating to returns  
2           relating to the cancellation of indebtedness by  
3           certain financial entities),”.

4           (c) CLERICAL AMENDMENT.—The table of sections  
5 for subpart B of part III of subchapter A of chapter 61  
6 is amended by adding at the end thereof the following new  
7 item:

                  “Sec. 6050P. Returns relating to the cancellation of indebtedness  
                  by certain financial entities.”

8           (d) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to discharges of indebtedness after  
10 the date of the enactment of this Act.

11           **PART VI—TREATMENT OF INTANGIBLES**

12           **SEC. 8261. AMORTIZATION OF GOODWILL AND CERTAIN**  
13                           **OTHER INTANGIBLES.**

14           (a) GENERAL RULE.—Part VI of subchapter B of  
15 chapter 1 (relating to itemized deductions for individuals  
16 and corporations) is amended by adding at the end thereof  
17 the following new section:

18           **“SEC. 197. AMORTIZATION OF GOODWILL AND CERTAIN**  
19                           **OTHER INTANGIBLES.**

20           “(a) GENERAL RULE.—A taxpayer shall be entitled  
21 to an amortization deduction with respect to any amortiz-  
22 able section 197 intangible. The amount of such deduction  
23 shall be determined by amortizing 75 percent of the ad-  
24 justed basis (for purposes of determining gain) of such

1 intangible ratably over the 14-year period beginning with  
2 the month in which such intangible was acquired.

3 “(b) NO OTHER DEPRECIATION OR AMORTIZATION  
4 DEDUCTION ALLOWABLE.—Except as provided in sub-  
5 section (a), no depreciation or amortization deduction  
6 shall be allowable with respect to any amortizable section  
7 197 intangible.

8 “(c) AMORTIZABLE SECTION 197 INTANGIBLE.—For  
9 purposes of this section—

10 “(1) IN GENERAL.—Except as otherwise pro-  
11 vided in this section, the term ‘amortizable section  
12 197 intangible’ means any section 197 intangible—

13 “(A) which is acquired by the taxpayer  
14 after the date of the enactment of this section,  
15 and

16 “(B) which is held in connection with the  
17 conduct of a trade or business or an activity de-  
18 scribed in section 212.

19 “(2) EXCLUSION OF SELF-CREATED INTANGI-  
20 BLES, ETC.—The term ‘amortizable section 197 in-  
21 tangible’ shall not include any section 197 intangi-  
22 ble—

23 “(A) which is not described in subpara-  
24 graph (D), (E), or (F) of subsection (d)(1), and

25 “(B) which is created by the taxpayer.

1 This paragraph shall not apply if the intangible is  
2 created in connection with a transaction (or series of  
3 related transactions) involving the acquisition of as-  
4 sets constituting a trade or business or substantial  
5 portion thereof.

6 “(3) ANTI-CHURNING RULES.—

“**For exclusion of intangibles acquired in certain transactions, see subsection (f)(9).**”

7 “(d) SECTION 197 INTANGIBLE.—For purposes of  
8 this section—

9 “(1) IN GENERAL.—Except as otherwise pro-  
10 vided in this section, the term ‘section 197 intangi-  
11 ble’ means—

12 “(A) goodwill,

13 “(B) going concern value,

14 “(C) any of the following intangible items:

15 “(i) workforce in place including its  
16 composition and terms and conditions  
17 (contractual or otherwise) of its employ-  
18 ment,

19 “(ii) business books and records, oper-  
20 ating systems, or any other information  
21 base (including lists or other information  
22 with respect to current or prospective cus-  
23 tomers),

1           “(iii) any patent, copyright, formula,  
2           process, design, pattern, knowhow, format,  
3           or other similar item,

4           “(iv) any customer-based intangible,

5           “(v) any supplier-based intangible,

6           and

7           “(vi) any other similar item,

8           “(D) any license, permit, or other right  
9           granted by a governmental unit or an agency or  
10          instrumentality thereof,

11          “(E) any covenant not to compete (or  
12          other arrangement to the extent such arrange-  
13          ment has substantially the same effect as a cov-  
14          enant not to compete) entered into in connec-  
15          tion with an acquisition (directly or indirectly)  
16          of an interest in a trade or business or substan-  
17          tial portion thereof, and

18          “(F) any franchise, trademark, or trade  
19          name.

20          “(2) CUSTOMER-BASED INTANGIBLE.—

21                 “(A) IN GENERAL.—The term ‘customer-  
22                 based intangible’ means—

23                         “(i) composition of market,

24                         “(ii) market share, and

1           “(iii) any other value resulting from  
2           future provision of goods or services pursu-  
3           ant to relationships (contractual or other-  
4           wise) in the ordinary course of business  
5           with customers.

6           “(B) SPECIAL RULE FOR FINANCIAL INSTI-  
7           TUTIONS.—In the case of a financial institu-  
8           tion, the term ‘customer-based intangible’ in-  
9           cludes deposit base and similar items.

10          “(3) SUPPLIER-BASED INTANGIBLE.—The term  
11          ‘supplier-based intangible’ means any value resulting  
12          from future acquisitions of goods or services pursu-  
13          ant to relationships (contractual or otherwise) in the  
14          ordinary course of business with suppliers of goods  
15          or services to be used or sold by the taxpayer.

16          “(e) EXCEPTIONS.—For purposes of this section, the  
17          term ‘section 197 intangible’ shall not include any of the  
18          following:

19                 “(1) FINANCIAL INTERESTS.—Any interest—

20                         “(A) in a corporation, partnership, trust,  
21                         or estate, or

22                         “(B) under an existing futures contract,  
23                         foreign currency contract, notional principal  
24                         contract, or other similar financial contract.

25                 “(2) LAND.—Any interest in land.

1           “(3) COMPUTER SOFTWARE.—

2                 “(A) IN GENERAL.—Any—

3                     “(i) computer software which is read-  
4                     ily available for purchase by the general  
5                     public, is subject to a nonexclusive license,  
6                     and has not been substantially modified,  
7                     and

8                     “(ii) other computer software which is  
9                     not acquired in a transaction (or series of  
10                    related transactions) involving the acquisi-  
11                    tion of assets constituting a trade or busi-  
12                    ness or substantial portion thereof.

13                 “(B) COMPUTER SOFTWARE DEFINED.—

14                 For purposes of subparagraph (A), the term  
15                 ‘computer software’ means any program de-  
16                 signed to cause a computer to perform a de-  
17                 sired function. Such term shall not include any  
18                 data base or similar item unless the data base  
19                 or item is in the public domain and is incidental  
20                 to the operation of otherwise qualifying com-  
21                 puter software.

22                 “(4) CERTAIN INTERESTS OR RIGHTS AC-  
23                 QUIRED SEPARATELY.—Any of the following not ac-  
24                 quired in a transaction (or series of related trans-

1 actions) involving the acquisition of assets constitut-  
2 ing a trade business or substantial portion thereof:

3 “(A) Any interest in a film, sound record-  
4 ing, video tape, book, or similar property.

5 “(B) Any right to receive tangible property  
6 or services under a contract or granted by a  
7 governmental unit or agency or instrumentality  
8 thereof.

9 “(C) Any interest in a patent or copyright.

10 “(D) To the extent provided in regulations,  
11 any right under a contract (or granted by a  
12 governmental unit or an agency or instrumen-  
13 tality thereof) if such right—

14 “(i) has a fixed duration of less than  
15 14 years, or

16 “(ii) is fixed as to amount and, with-  
17 out regard to this section, would be recov-  
18 erable under a method similar to the unit-  
19 of-production method.

20 “(5) INTERESTS UNDER LEASES AND DEBT IN-  
21 STRUMENTS.—Any interest under—

22 “(A) an existing lease of tangible property,  
23 or

24 “(B) except as provided in subsection  
25 (d)(2)(B), any existing indebtedness.

1           “(6) TREATMENT OF SPORTS FRANCHISES.—A  
2 franchise to engage in professional football, basket-  
3 ball, baseball, or other professional sport, and any  
4 item acquired in connection with such a franchise.

5           “(7) MORTGAGE SERVICING.—Any right to  
6 service indebtedness which is secured by residential  
7 real property unless such right is acquired in a  
8 transaction (or series of related transactions) involv-  
9 ing the acquisition of assets (other than rights de-  
10 scribed in this paragraph) constituting a trade or  
11 business or substantial portion thereof.

12           “(8) CERTAIN TRANSACTION COSTS.—Any fees  
13 for professional services, and any transaction costs,  
14 incurred by parties to a transaction with respect to  
15 which any portion of the gain or loss is not recog-  
16 nized under part III of subchapter C.

17           “(f) SPECIAL RULES.—

18           “(1) TREATMENT OF CERTAIN DISPOSITIONS,  
19 ETC.—If there is a disposition of any amortizable  
20 section 197 intangible acquired in a transaction or  
21 series of related transactions (or any such intangible  
22 becomes worthless) and one or more other amortiz-  
23 able section 197 intangibles acquired in such trans-  
24 action or series of related transactions are re-  
25 tained—

1           “(A) no loss shall be recognized by reason  
2 of such disposition (or such worthlessness), and

3           “(B) appropriate adjustments to the ad-  
4 justed bases of such retained intangibles shall  
5 be made for any loss not recognized under sub-  
6 paragraph (A).

7 All persons treated as a single taxpayer under sec-  
8 tion 41(f)(1) shall be so treated for purposes of the  
9 preceding sentence.

10           “(2) TREATMENT OF CERTAIN TRANSFERS.—

11           “(A) IN GENERAL.—In the case of any sec-  
12 tion 197 intangible transferred in a transaction  
13 described in subparagraph (B), the transferee  
14 shall be treated as the transferor for purposes  
15 of applying this section with respect to so much  
16 of the adjusted basis in the hands of the trans-  
17 feree as does not exceed the adjusted basis in  
18 the hands of the transferor.

19           “(B) TRANSACTIONS COVERED.—The  
20 transactions described in this subparagraph  
21 are—

22           “(i) any transaction described in sec-  
23 tion 332, 351, 361, 721, 731, 1031, or  
24 1033, and

1           “(ii) any transaction between mem-  
2           bers of the same affiliated group during  
3           any taxable year for which a consolidated  
4           return is made by such group.

5           “(3) TREATMENT OF AMOUNTS PAID PURSUANT  
6           TO COVENANTS NOT TO COMPETE, ETC.—Any  
7           amount paid or incurred pursuant to a covenant or  
8           arrangement referred to in subsection (d)(1)(E)  
9           shall be treated as an amount chargeable to capital  
10          account.

11          “(4) TREATMENT OF FRANCHISES, ETC.—

12           “(A) FRANCHISE.—The term ‘franchise’  
13           has the meaning given to such term by section  
14           1253(b)(1).

15           “(B) TREATMENT OF RENEWALS.—Any  
16           renewal of a franchise, trademark, or trade  
17           name (or of a license, a permit, or other right  
18           referred to in subsection (d)(1)(D)) shall be  
19           treated as an acquisition. The preceding sen-  
20           tence shall only apply with respect to costs in-  
21           curred in connection with such renewal.

22           “(C) CERTAIN AMOUNTS NOT TAKEN INTO  
23           ACCOUNT.—Any amount to which section  
24           1253(d)(1) applies shall not be taken into ac-  
25           count under this section.

1           “(5) TREATMENT OF CERTAIN REINSURANCE  
2           TRANSACTIONS.—In the case of any amortizable sec-  
3           tion 197 intangible resulting from an assumption re-  
4           insurance transaction, the amount taken into ac-  
5           count as the adjusted basis of such intangible under  
6           this section shall be the excess of—

7                   “(A) the amount paid or incurred by the  
8                   acquirer under the assumption reinsurance  
9                   transaction, over

10                   “(B) the amount required to be capitalized  
11                   under section 848 in connection with such  
12                   transaction.

13           Subsection (b) shall not apply to any amount re-  
14           quired to be capitalized under section 848.

15           “(6) TREATMENT OF CERTAIN SUBLEASES.—  
16           For purposes of this section, a sublease shall be  
17           treated in the same manner as a lease of the under-  
18           lying property involved.

19           “(7) TREATMENT AS DEPRECIABLE.—For pur-  
20           poses of this chapter, any amortizable section 197  
21           intangible shall be treated as property which is of a  
22           character subject to the allowance for depreciation  
23           provided in section 167.

24           “(8) TREATMENT OF CERTAIN INCREMENTS IN  
25           VALUE.—This section shall not apply to any incre-

1       ment in value if, without regard to this section, such  
2       increment is properly taken into account in deter-  
3       mining the cost of property which is not a section  
4       197 intangible.

5           “(9) ANTI-CHURNING RULES.—For purposes of  
6       this section—

7           “(A) IN GENERAL.—The term ‘amortizable  
8       section 197 intangible’ shall not include any  
9       section 197 intangible which is described in  
10      subparagraph (A) or (B) of subsection (d)(1)  
11      (or for which depreciation or amortization  
12      would not have been allowable but for this sec-  
13      tion) and which is acquired by the taxpayer  
14      after the date of the enactment of this section,  
15      if—

16           “(i) the intangible was held or used at  
17           any time on or after July 25, 1991, and on  
18           or before such date of enactment by the  
19           taxpayer or a related person,

20           “(ii) the intangible was acquired from  
21           a person who held such intangible at any  
22           time on or after July 25, 1991, and on or  
23           before such date of enactment, and, as  
24           part of the transaction, the user of such  
25           intangible does not change, or

1           “(iii) the taxpayer grants the right to  
2           use such intangible to a person (or a per-  
3           son related to such person) who held or  
4           used such intangible at any time on or  
5           after July 25, 1991, and on or before such  
6           date of enactment.

7           For purposes of this subparagraph, the deter-  
8           mination of whether the user of property  
9           changes as part of a transaction shall be deter-  
10          mined in accordance with regulations prescribed  
11          by the Secretary. For purposes of this subpara-  
12          graph, deductions allowable under section  
13          1253(d) shall be treated as deductions allowable  
14          for amortization.

15          “(B) EXCEPTION WHERE GAIN RECOG-  
16          NIZED.—If—

17               “(i) subparagraph (A) would not  
18               apply to an intangible acquired by the tax-  
19               payer but for the last sentence of subpara-  
20               graph (C)(i), and

21               “(ii) the person from whom the tax-  
22               payer acquired the intangible elects, not-  
23               withstanding any other provision of this  
24               title—

1           “(I) to recognize gain on the dis-  
2           position of the intangible, and

3           “(II) to pay a tax on such gain  
4           which, when added to any other in-  
5           come tax on such gain under this title,  
6           equals such gain multiplied by the  
7           highest rate of income tax applicable  
8           to such person under this title,

9           then subparagraph (A) shall apply to the  
10          intangible only to the extent that the tax-  
11          payer’s adjusted basis in the intangible ex-  
12          ceeds the gain recognized under clause  
13          (ii)(I).

14          “(C) RELATED PERSON DEFINED.—For  
15          purposes of this paragraph—

16                 “(i) RELATED PERSON.—A person  
17                 (hereinafter in this paragraph referred to  
18                 as the ‘related person’) is related to any  
19                 person if—

20                         “(I) the related person bears a  
21                         relationship to such person specified  
22                         in section 267(b) or section 707(b)(1),  
23                         or

24                         “(II) the related person and such  
25                         person are engaged in trades or busi-

1           nesses under common control (within  
2           the meaning of subparagraphs (A)  
3           and (B) of section 41(f)(1)).

4           For purposes of subclause (I), in applying  
5           section 267(b) or 707(b)(1), ‘20 percent’  
6           shall be substituted for ‘50 percent’.

7           “(ii) TIME FOR MAKING DETERMINA-  
8           TION.—A person shall be treated as related  
9           to another person if such relationship ex-  
10          ists immediately before or immediately  
11          after the acquisition of the intangible in-  
12          volved.

13          “(D) ACQUISITIONS BY REASON OF  
14          DEATH.—Subparagraph (A) shall not apply to  
15          the acquisition of any property by the taxpayer  
16          if the basis of the property in the hands of the  
17          taxpayer is determined under section 1014(a).

18          “(E) SPECIAL RULE FOR PARTNER-  
19          SHIPS.—With respect to any increase in the  
20          basis of partnership property under section 732,  
21          734, or 743, determinations under this para-  
22          graph shall be made at the partner level and  
23          each partner shall be treated as having owned  
24          and used such partner’s proportionate share of  
25          the partnership assets.

1           “(F) ANTI-ABUSE RULES.—The term ‘am-  
2           ortizable section 197 intangible’ does not in-  
3           clude any section 197 intangible acquired in a  
4           transaction, one of the principal purposes of  
5           which is to avoid the requirement of subsection  
6           (c)(1) that the intangible be acquired after the  
7           date of the enactment of this section or to avoid  
8           the provisions of subparagraph (A).

9           “(g) SPECIAL RULES FOR ACQUISITION OF CERTAIN  
10          COMPUTER SOFTWARE BUSINESSES.—

11           “(1) IN GENERAL.—In the case of any section  
12          197 intangible acquired in a transaction to which  
13          this subsection applies, subsection (a) shall be ap-  
14          plied with respect to one-half of the 75 percent of  
15          its adjusted basis which is amortizable under sub-  
16          section (a) by substituting ‘5-year period’ for ‘14-  
17          year period’.

18           “(2) TRANSACTIONS TO WHICH SUBSECTION  
19          APPLIES.—

20           “(A) IN GENERAL.—This subsection shall  
21          apply to a transaction (or series of related  
22          transactions) involving the acquisition of assets  
23          constituting a trade or business or substantial  
24          portion thereof if—

1           “(i) the principal business activity of  
2           the trade or business (or portion) is com-  
3           puter software development, computer  
4           sales, licensing, or leasing, the provision of  
5           computer software services, or a combina-  
6           tion thereof, and

7           “(ii) during the testing period, the ag-  
8           gregate computer software development  
9           costs of such trade or business (or portion)  
10          are not less than 17 percent of the greater  
11          of—

12                   “(I) the aggregate gross receipts  
13                   of such trade or business (or portion),  
14                   or

15                   “(II) the aggregate gross expend-  
16                   itures of such trade or business (or  
17                   portion).

18           “(B) COMPUTER SOFTWARE DEVELOP-  
19           MENT COSTS.—For purposes of subparagraph  
20           (A), the term ‘computer software development  
21           costs’ means the sum of—

22                   “(i) the computer software develop-  
23                   ment costs which qualify as research and  
24                   experimentation expenditures under section  
25                   174, plus

1           “(ii) the amortization deductions of  
2           the trade or business with respect to com-  
3           puter software not acquired in a trans-  
4           action (or series of related transactions)  
5           involving the acquisition of assets con-  
6           stituting a trade or business or substantial  
7           portion thereof.

8           “(C) TESTING PERIOD.—For purposes of  
9           subparagraph (A), the term ‘testing period’  
10          means the 5-year period ending on the date of  
11          the last transaction described in subparagraph  
12          (A) pursuant to which the section 197 intangi-  
13          ble was acquired (or, if shorter, the entire pe-  
14          riod of existence of the trade or business (or  
15          portion) before such date).

16          “(h) REGULATIONS.—The Secretary shall prescribe  
17          such regulations as may be appropriate to carry out the  
18          purposes of this section, including such regulations as may  
19          be appropriate to prevent avoidance of the purposes of this  
20          section through related persons or otherwise.”

21          (b) MODIFICATIONS TO DEPRECIATION RULES.—

22                  (1) TREATMENT OF CERTAIN PROPERTY EX-  
23          CLUDED FROM SECTION 197.—Section 167 (relating  
24          to depreciation deduction) is amended by redesignat-

1       ing subsection (f) as subsection (g) and by inserting  
2       after subsection (e) the following new subsection:

3       “(f) TREATMENT OF CERTAIN PROPERTY EXCLUDED  
4 FROM SECTION 197.—

5             “(1) COMPUTER SOFTWARE.—

6                 “(A) IN GENERAL.—If a depreciation de-  
7                 duction is allowable under subsection (a) with  
8                 respect to any computer software, such deduc-  
9                 tion shall be computed by using the straight  
10                line method and a useful life of 36 months.

11               “(B) COMPUTER SOFTWARE.—For pur-  
12               poses of this section, the term ‘computer soft-  
13               ware’ has the meaning given to such term by  
14               section 197(e)(3)(B); except that such term  
15               shall not include any such software which is an  
16               amortizable section 197 intangible.

17             “(2) CERTAIN INTERESTS OR RIGHTS AC-  
18             QUIRED SEPARATELY.—If a depreciation deduction  
19             is allowable under subsection (a) with respect to any  
20             property described in subparagraph (B), (C), or (D)  
21             of section 197(e)(4), such deduction shall be com-  
22             puted in accordance with regulations prescribed by  
23             the Secretary.

24             “(3) MORTGAGE SERVICING RIGHTS.—If a de-  
25             preciation deduction is allowable under subsection

1 (a) with respect to any right described in section  
2 197(e)(7), such deduction shall be computed by  
3 using the straight line method and a useful life of  
4 108 months.”

5 (2) ALLOCATION OF BASIS IN CASE OF LEASED  
6 PROPERTY.—Subsection (c) of section 167 is amend-  
7 ed to read as follows:

8 “(c) BASIS FOR DEPRECIATION.—

9 “(1) IN GENERAL.—The basis on which exhaus-  
10 tion, wear and tear, and obsolescence are to be al-  
11 lowed in respect of any property shall be the ad-  
12 justed basis provided in section 1011, for the pur-  
13 pose of determining the gain on the sale or other  
14 disposition of such property.

15 “(2) SPECIAL RULE FOR PROPERTY SUBJECT  
16 TO LEASE.—If any property is acquired subject to a  
17 lease—

18 “(A) no portion of the adjusted basis shall  
19 be allocated to the leasehold interest, and

20 “(B) the entire adjusted basis shall be  
21 taken into account in determining the deprecia-  
22 tion deduction (if any) with respect to the prop-  
23 erty subject to the lease.”

1 (c) AMENDMENTS TO SECTION 1253.—Subsection  
2 (d) of section 1253 is amended by striking paragraphs (2),  
3 (3), (4), and (5) and inserting the following:

4 “(2) OTHER PAYMENTS.—Any amount paid or  
5 incurred on account of a transfer, sale, or other dis-  
6 position of a franchise, trademark, or trade name to  
7 which paragraph (1) does not apply shall be treated  
8 as an amount chargeable to capital account.

9 “(3) RENEWALS, ETC.—For purposes of deter-  
10 mining the term of a transfer agreement under this  
11 section, there shall be taken into account all renewal  
12 options (and any other period for which the parties  
13 reasonably expect the agreement to be renewed).”

14 (d) AMENDMENT TO SECTION 848.—Subsection (g)  
15 of section 848 is amended by striking “this section” and  
16 inserting “this section or section 197”.

17 (e) AMENDMENTS TO SECTION 1060.—

18 (1) Paragraph (1) of section 1060(b) is amend-  
19 ed by striking “goodwill or going concern value” and  
20 inserting “section 197 intangibles”.

21 (2) Paragraph (1) of section 1060(d) is amend-  
22 ed by striking “goodwill or going concern value (or  
23 similar items)” and inserting “section 197 intangi-  
24 bles”.

25 (f) TECHNICAL AND CONFORMING AMENDMENTS.—

1           (1) Subsection (g) of section 167 (as redesignig-  
2           nated by subsection (b)) is amended to read as fol-  
3           lows:

4           “(g) CROSS REFERENCES.—

**“(1) For additional rule applicable to depreciation  
of improvements in the case of mines, oil and gas  
wells, other natural deposits, and timber, see sec-  
tion 611.**

**“(2) For amortization of goodwill and certain  
other intangibles, see section 197.”**

5           (2) Subsection (f) of section 642 is amended by  
6           striking “section 169” and inserting “sections 169  
7           and 197”.

8           (3) Subsection (a) of section 1016 is amended  
9           by striking paragraph (19) and by redesignating the  
10          following paragraphs accordingly.

11          (4) Subparagraph (C) of section 1245(a)(2) is  
12          amended by striking “193, or 1253(d) (2) or (3)”  
13          and inserting “or 193”.

14          (5) Paragraph (3) of section 1245(a) is amend-  
15          ed by striking “section 185 or 1253(d) (2) or (3)”.

16          (6) The table of sections for part VI of sub-  
17          chapter B of chapter 1 is amended by adding at the  
18          end thereof the following new item:

          “Sec. 197. Amortization of goodwill and certain other intangi-  
          bles.”.

19          (g) EFFECTIVE DATE.—

20          (1) IN GENERAL.—Except as otherwise pro-  
21          vided in this subsection, the amendments made by

1 this section shall apply with respect to property ac-  
2 quired after the date of the enactment of this Act.

3 (2) ELECTION TO HAVE AMENDMENTS APPLY  
4 TO PROPERTY ACQUIRED AFTER JULY 25, 1991.—

5 (A) IN GENERAL.—If an election under  
6 this paragraph applies to the taxpayer—

7 (i) the amendments made by this sec-  
8 tion shall apply to property acquired by the  
9 taxpayer after July 25, 1991,

10 (ii) subsection (c)(1)(A) of section  
11 197 of the Internal Revenue Code of 1986  
12 (as added by this section) (and so much of  
13 subsection (f)(9)(A) of such section 197 as  
14 precedes clause (i) thereof) shall be applied  
15 with respect to the taxpayer by treating  
16 July 25, 1991, as the date of the enact-  
17 ment of such section, and

18 (iii) in applying subsection (f)(9) of  
19 such section, with respect to any property  
20 acquired by the taxpayer on or before the  
21 date of the enactment of this Act, only  
22 holding or use on July 25, 1991, shall be  
23 taken into account.

24 (B) ELECTION.—An election under this  
25 paragraph shall be made at such time and in

1 such manner as the Secretary of the Treasury  
2 or his delegate may prescribe. Such an election  
3 by any taxpayer, once made—

4 (i) may be revoked only with the con-  
5 sent of the Secretary, and

6 (ii) shall apply to the taxpayer making  
7 such election and any other taxpayer under  
8 common control with the taxpayer (within  
9 the meaning of subparagraphs (A) and (B)  
10 of section 41(f)(1) of such Code) at any  
11 time after November 22, 1991, and on or  
12 before the date on which such election is  
13 made.

14 (3) ELECTIVE BINDING CONTRACT EXCEP-  
15 TION.—

16 (A) IN GENERAL.—The amendments made  
17 by this section shall not apply to any acqui-  
18 sition of property by the taxpayer if—

19 (i) such acquisition is pursuant to a  
20 written binding contract in effect on the  
21 date of the enactment of this Act and at  
22 all times thereafter before such acquisition,

23 (ii) an election under paragraph (2)  
24 does not apply to the taxpayer, and

1 (iii) the taxpayer makes an election  
2 under this paragraph with respect to such  
3 contract.

4 (B) ELECTION.—An election under this  
5 paragraph shall be made at such time and in  
6 such manner as the Secretary of the Treasury  
7 or his delegate shall prescribe. Such an election,  
8 once made—

9 (i) may be revoked only with the con-  
10 sent of the Secretary, and

11 (ii) shall apply to all property ac-  
12 quired pursuant to the contract with re-  
13 spect to which such election was made.

14 **SEC. 8262. TREATMENT OF CERTAIN PAYMENTS TO RE-**  
15 **TIRED OR DECEASED PARTNER.**

16 (a) SECTION 736(b) NOT TO APPLY IN CERTAIN  
17 CASES.—Subsection (b) of section 736 (relating to pay-  
18 ments for interest in partnership) is amended by adding  
19 at the end thereof the following new paragraph:

20 “(3) LIMITATION ON APPLICATION OF PARA-  
21 GRAPH (2).—Paragraph (2) shall apply only if—

22 “(A) capital is not a material income-pro-  
23 ducing factor for the partnership, and

24 “(B) the retiring or deceased partner was  
25 a general partner in the partnership.”

1 (b) LIMITATION ON DEFINITION OF UNREALIZED  
2 RECEIVABLES.—

3 (1) IN GENERAL.—Subsection (c) of section  
4 751 (defining unrealized receivables) is amended—

5 (A) by striking “sections 731, 736, and  
6 741” each place they appear and inserting “,  
7 sections 731 and 741 (but not for purposes of  
8 section 736)”, and

9 (B) by striking “section 731, 736, or 741”  
10 each place it appears and inserting “section  
11 731 or 741”.

12 (2) TECHNICAL AMENDMENTS.—

13 (A) Subsection (e) of section 751 is  
14 amended by striking “sections 731, 736, and  
15 741” and inserting “sections 731 and 741”.

16 (B) Section 736 is amended by striking  
17 subsection (c).

18 (c) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by  
20 this section shall apply in the case of partners retir-  
21 ing or dying on or after January 5, 1993.

22 (2) BINDING CONTRACT EXCEPTION.—The  
23 amendments made by this section shall not apply to  
24 any partner retiring on or after January 5, 1993, if  
25 a written contract to purchase such partner’s inter-

1 est in the partnership was binding on January 4,  
2 1993, and at all times thereafter before such pur-  
3 chase.

4 **PART VII—MISCELLANEOUS PROVISIONS**

5 **SEC. 8271. DENIAL OF DEDUCTION RELATING TO TRAVEL**  
6 **EXPENSES.**

7 (a) IN GENERAL.—Section 274(m) (relating to addi-  
8 tional limitations on travel expenses) is amended by add-  
9 ing at the end thereof the following new paragraph:

10 “(3) TRAVEL EXPENSES OF SPOUSE, DEPEND-  
11 ENT, OR OTHERS.—No deduction shall be allowed  
12 under this chapter (other than section 217) for trav-  
13 el expenses paid or incurred with respect to a  
14 spouse, dependent, or other individual accompanying  
15 the taxpayer (or an officer or employee of the tax-  
16 payer) on business travel, unless—

17 “(A) the spouse, dependent, or other indi-  
18 vidual is an employee of the taxpayer,

19 “(B) the travel of the spouse, dependent,  
20 or other individual is for a bona fide business  
21 purpose, and

22 “(C) such expenses would otherwise be de-  
23 ductible by the spouse, dependent, or other indi-  
24 vidual.”

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to amounts paid or incurred after  
3 December 31, 1993.

4 **SEC. 8272. INCREASE IN WITHHOLDING FROM SUPPLE-**  
5 **MENTAL WAGE PAYMENTS.**

6 If an employer elects under Treasury Regulation  
7 31.3402(g)-1 to determine the amount to be deducted  
8 and withheld from any supplemental wage payment by  
9 using a flat percentage rate, the rate to be used in deter-  
10 mining the amount to be so deducted and withheld shall  
11 not be less than 28 percent. The preceding sentence shall  
12 apply to payments made after December 31, 1993.

13 **SEC. 8273. EXCISE TAX ON CERTAIN VACCINES MADE PER-**  
14 **MANENT.**

15 (a) TAX.—Subsection (c) of section 4131 (relating to  
16 tax on certain vaccines) is amended to read as follows:

17 “(c) APPLICATION OF SECTION.—The tax imposed by  
18 this section shall apply—

19 “(1) after December 31, 1987, and before Jan-  
20 uary 1, 1993, and

21 “(2) during periods after the date of the enact-  
22 ment of the Omnibus Budget Reconciliation Act of  
23 1993.”

24 (b) TRUST FUND.—Paragraph (1) of section 9510(c)  
25 (relating to expenditures from Vaccine Injury Compensa-

1 tion Trust Fund) is amended by striking “and before Oc-  
2 tober 1, 1992,”.

3 (c) FLOOR STOCKS TAX.—

4 (1) IMPOSITION OF TAX.—On any taxable vac-  
5 cine—

6 (A) which was sold by the manufacturer,  
7 producer, or importer before the date of the en-  
8 actment of this Act,

9 (B) on which no tax was imposed by sec-  
10 tion 4131 of the Internal Revenue Code of 1986  
11 (or, if such tax was imposed, was credited or re-  
12 funded), and

13 (C) which is held on such date by any per-  
14 son for sale or use,

15 there is hereby imposed a tax in the amount deter-  
16 mined under section 4131(b) of such Code.

17 (2) LIABILITY FOR TAX AND METHOD OF PAY-  
18 MENT.—

19 (A) LIABILITY FOR TAX.—The person  
20 holding any taxable vaccine to which the tax  
21 imposed by paragraph (1) applies shall be liable  
22 for such tax.

23 (B) METHOD OF PAYMENT.—The tax im-  
24 posed by paragraph (1) shall be paid in such

1 manner as the Secretary shall prescribe by reg-  
2 ulations.

3 (C) TIME FOR PAYMENT.—The tax im-  
4 posed by paragraph (1) shall be paid on or be-  
5 fore the last day of the 6th month beginning  
6 after the date of the enactment of this Act.

7 (3) DEFINITIONS.—For purposes of this sub-  
8 section, terms used in this subsection which are also  
9 used in section 4131 of such Code shall have the re-  
10 spective meanings such terms have in such section.

11 (4) OTHER LAWS APPLICABLE.—All provisions  
12 of law, including penalties, applicable with respect to  
13 the taxes imposed by section 4131 of such Code  
14 shall, insofar as applicable and not inconsistent with  
15 the provisions of this subsection, apply to the floor  
16 stocks taxes imposed by paragraph (1), to the same  
17 extent as if such taxes were imposed by such section  
18 4131.

19 **TITLE IX—COMMITTEE ON**  
20 **FOREIGN RELATIONS**

21 **SEC. 9001. DELAY IN COST-OF-LIVING ADJUSTMENTS IN**  
22 **FOREIGN SERVICE RETIREMENT BENEFITS**  
23 **DURING FISCAL YEARS 1994, 1995, AND 1996.**

24 (a) APPLICABILITY.—This section shall apply with  
25 respect to any cost-of-living increase scheduled to take ef-

1   fect under section 826 or 858 of the Foreign Service Act  
2   of 1980 during fiscal year 1994, 1995, or 1996.

3       (b) DELAY IN EFFECTIVE DATE OF ADJUST-  
4   MENTS.—A cost-of-living increase described in subsection  
5   (a) shall not take effect until the first day of the third  
6   calendar month after the date such increase would take  
7   effect but for this subsection.

8       (c) RULE OF CONSTRUCTION.—

9           (1) SIZE OF COST-OF-LIVING ADJUSTMENT.—  
10   Nothing in this section shall be considered to affect  
11   the size of the cost-of-living adjustment under sec-  
12   tion 8340(b) or section 8462(b) of title 5, United  
13   States Code, in the same fiscal year as a cost-of-liv-  
14   ing increase described in subsection (a).

15          (2) DETERMINATIONS OF ELIGIBILITY.—The  
16   delay in the effective date of cost-of-living adjust-  
17   ments under subsection (b) shall not affect any de-  
18   termination relating to eligibility for an annuity in-  
19   crease or the amount of the first increase in an an-  
20   nuity under section 826 or 858 of the Foreign  
21   Service Act of 1980.

1 **SEC. 9002. ELIMINATION OF THE ALTERNATIVE-FORM-OF-**  
2 **ANNUITY OPTION UNDER THE FOREIGN**  
3 **SERVICE RETIREMENT AND DISABILITY SYS-**  
4 **TEM EXCEPT FOR INDIVIDUALS WITH CRITI-**  
5 **CAL MEDICAL CONDITIONS.**

6 (a) IN GENERAL.—Section 807(e)(1) of the Foreign  
7 Service Act of 1980 (22 U.S.C. 4047(e)(1)) is amended  
8 by striking “a participant may,” and inserting “any par-  
9 ticipant who has a life-threatening affliction or other criti-  
10 cal medical condition may,”.

11 (b) EFFECTIVE DATE.—The amendment made by  
12 subsection (a) shall take effect January 1, 1994.

13 **TITLE X—COMMITTEE ON**  
14 **GOVERNMENTAL AFFAIRS**  
15 **Subtitle A—Civil Service**

16 **SEC. 10001. DELAY IN COST-OF-LIVING ADJUSTMENTS IN**  
17 **FEDERAL EMPLOYEE RETIREMENT BENEFITS**  
18 **DURING FISCAL YEARS 1994, 1995, AND 1996.**

19 (a) APPLICABILITY.—This section shall apply with  
20 respect to any cost-of-living increase scheduled to take  
21 effect, during fiscal year 1994, 1995, or 1996, under—

22 (1) section 8340(b) or 8462(b) of title 5,  
23 United States Code; or

24 (2) section 291 of the Central Intelligence  
25 Agency Retirement Act (50 U.S.C. 2131), as set  
26 forth in section 802 of the CIARDS Technical Cor-

1 rections Act of 1992 (Public Law 102–496; 106  
2 Stat. 3196).

3 (b) DELAY IN EFFECTIVE DATE OF ADJUST-  
4 MENTS.—A cost-of-living increase described in subsection  
5 (a) shall not take effect until the first day of the third  
6 calendar month after the date such increase would other-  
7 wise take effect.

8 (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
9 tion shall be considered to affect any determination relat-  
10 ing to eligibility for an annuity increase or the amount  
11 of the first increase in an annuity under section 8340(b)  
12 or (c) or section 8462 (b) or (c) of title 5, United States  
13 Code, or comparable provisions of law.

14 **SEC. 10002. PERMANENT ELIMINATION OF THE ALTER-**  
15 **NATIVE-FORM-OF-ANNUITY OPTION EXCEPT**  
16 **FOR INDIVIDUALS WITH A CRITICAL MEDI-**  
17 **CAL CONDITION.**

18 (a) CIVIL SERVICE RETIREMENT SYSTEM; FEDERAL  
19 EMPLOYEES' RETIREMENT SYSTEM.—Sections 8343a and  
20 8420a of title 5, United States Code, are each amended—

21 (1) in subsection (a) by striking “an employee  
22 or Member may,” and inserting “any employee or  
23 Member who has a life-threatening affliction or  
24 other critical medical condition may,”; and

25 (2) by striking subsection (f).

1 (b) CENTRAL INTELLIGENCE AGENCY RETIREMENT  
2 AND DISABILITY SYSTEM.—Section 294(a) of the Central  
3 Intelligence Agency Retirement Act (50 U.S.C. 2143(a)),  
4 as set forth in section 802 of the CIARDS Technical Cor-  
5 rections Act of 1992 (Public Law 102–496; 106 Stat.  
6 3196), is amended by striking “a participant may,” and  
7 inserting “any participant who has a life-threatening  
8 affliction or other critical medical condition may,”.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall become effective on October 1, 1995, and  
11 shall apply with respect to any annuity commencing on  
12 or after that date.

13 **SEC. 10003. DISTRICT OF COLUMBIA GOVERNMENT CON-**  
14 **TRIBUTIONS FOR CERTAIN EMPLOYEE AND**  
15 **ANNUITANT HEALTH BENEFITS.**

16 (a) CONTRIBUTIONS AFTER 1993.—

17 (1) IN GENERAL.—Section 8906(g) of title 5,  
18 United States Code, is amended by adding at the  
19 end thereof the following new paragraph:

20 “(3) The Government contributions authorized  
21 by this section for health benefits for an annuitant  
22 shall be paid by the government of the District of  
23 Columbia, in the case of an annuitant whose eligi-  
24 bility for an annuity is based on a separation from  
25 service with such government, or who is a survivor

1 of such an annuitant or a survivor of an employee  
2 who died while employed by such government.”.

3 (2) EFFECTIVE DATE.—The amendment made  
4 by paragraph (1) shall take effect on October 1,  
5 1993, and shall apply with respect to amounts pay-  
6 able for periods beginning on or after that date.

7 (b) CONTRIBUTIONS FOR PERIOD BETWEEN 1975  
8 AND 1993.—

9 (1) IN GENERAL.—The government of the Dis-  
10 trict of Columbia shall pay into the Employees  
11 Health Benefit Fund, as payment for any amounts  
12 which would, for the period beginning on January 1,  
13 1975 through September 30, 1993, have been pay-  
14 able under the provisions of section 8906(g)(3) of  
15 title 5, United States Code (as added by subsection  
16 (a)(1) of this section) if such provision had been in  
17 effect as of January 1, 1975, of which—

18 (A) at least 25 percent of the total of such  
19 amounts shall be paid no later than January 1,  
20 1994;

21 (B) at least 25 percent of the total of such  
22 amounts shall be paid no later than January 1,  
23 1995;

1 (C) at least 25 percent of the total of such  
2 amounts shall be paid no later than January 1,  
3 1996; and

4 (D) any remaining balance shall be paid no  
5 later than January 1, 1997.

6 (2) PRORATED PAYMENTS.—In determining any  
7 amount for which the government of the District of  
8 Columbia is liable under paragraph (1), the amount  
9 of the liability shall be prorated to reflect only that  
10 portion of total service which is attributable to civil-  
11 ian service performed (by the former employee of the  
12 government of the District of Columbia or by the de-  
13 ceased individual referred to under section 8906  
14 (g)(3) of title 5, United States Code, as the case  
15 may be) during the period beginning on January 1,  
16 1975, through September 30, 1993, as estimated by  
17 the Office of Personnel Management.

## 18 **Subtitle B—Postal Service**

### 19 **SEC. 10101. PAYMENTS TO BE MADE BY THE UNITED** 20 **STATES POSTAL SERVICE.**

21 (a) RELATING TO CORRECTED CALCULATIONS FOR  
22 PAST RETIREMENT COLAS.—In addition to any other  
23 payments required under section 8348(m) of title 5, Unit-  
24 ed States Code, or any other provision of law, the United  
25 States Postal Service shall pay into the Civil Service Re-

1 tirement and Disability Fund a total of \$693,000,000, of  
2 which—

3 (1) at least one-third shall be paid not later  
4 than September 30, 1996;

5 (2) at least two-thirds shall be paid not later  
6 than September 30, 1997; and

7 (3) any remaining balance shall be paid not  
8 later than September 30, 1998.

9 (b) RELATING TO CORRECTED CALCULATIONS FOR  
10 PAST HEALTH BENEFITS.—In addition to any other pay-  
11 ments required under section 8906(g)(2) of title 5, United  
12 States Code, or any other provision of law, the United  
13 States Postal Service shall pay into the Employees Health  
14 Benefits Fund a total of \$348,000,000, of which—

15 (1) at least one-third shall be paid not later  
16 than September 30, 1996;

17 (2) at least two-thirds shall be paid not later  
18 than September 30, 1997; and

19 (3) any remaining balance shall be paid not  
20 later than September 30, 1998.

## 21 **Subtitle C—Miscellaneous**

### 22 **SEC. 10201. FEDERAL EMPLOYEES' SURVIVOR ANNUITY IM-** 23 **PROVEMENTS.**

24 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

1           (1) REDUCTION FOR SPOUSAL ANNUITY.—Sec-  
2           tion 8339(j) of title 5, United States Code, is  
3           amended—

4                   (A) in paragraph (3)—

5                           (i) in the second sentence, by striking  
6                           out “, within such 2-year period,”; and

7                           (ii) by striking out the fourth sentence  
8                           and inserting in lieu thereof the following:

9                           “The Office shall, by regulation, provide  
10                           for payment of the deposit required under  
11                           this paragraph by a reduction in the annu-  
12                           ity of the employee or Member. The reduc-  
13                           tion shall, to the extent practicable, be de-  
14                           signed so that the present value of the fu-  
15                           ture reduction is actuarially equivalent to  
16                           the deposit required under this paragraph,  
17                           except that the total reductions in the an-  
18                           nuity of an employee or Member to pay de-  
19                           posits required by the provisions of this  
20                           paragraph, paragraph (5), or subsection  
21                           (k)(2) shall not exceed 25 percent of the  
22                           annuity computed under subsections (a)  
23                           through (i), (n), and (q), including adjust-  
24                           ments under section 8340. The reduction,  
25                           which shall be effective on the same date

1 as the election under this paragraph, shall  
2 be permanent and unaffected by any fu-  
3 ture termination of the entitlement of the  
4 former spouse. Such reduction shall be  
5 independent of and in addition to the re-  
6 duction required under the first sentence  
7 of this paragraph.”; and

8 (B) in paragraph (5)(C)—

9 (i) in clause (ii), by striking out “,  
10 within 2 years after the date of the remar-  
11 riage or, if later, the death or remarriage  
12 of the former spouse (or of the last such  
13 surviving former spouse),”; and

14 (ii) by amending clause (iii) to read as  
15 follows:

16 “(iii) The Office shall, by regulation, pro-  
17 vide for payment of the deposit required under  
18 clause (ii) by a reduction in the annuity of the  
19 employee or Member. The reduction shall, to  
20 the extent practicable, be designed so that the  
21 present value of the future reduction is actuari-  
22 ally equivalent to the deposit required under  
23 clause (ii), except that total reductions in the  
24 annuity of an employee or Member to pay de-  
25 posits required by the provisions of this para-

1 graph or paragraph (3) shall not exceed 25 per-  
2 cent of the annuity computed under subsections  
3 (a) through (i), (n), and (q), including adjust-  
4 ments under section 8340. The reduction re-  
5 quired by this clause, which shall be effective on  
6 the same date as the election under clause (i),  
7 shall be permanent and unaffected by any fu-  
8 ture termination of the marriage. Such reduc-  
9 tion shall be independent of and in addition to  
10 the reduction required under clause (i).”.

11 (2) REDUCTION RELATING TO FORMER  
12 SPOUSE.—Section 8339(k)(2) of title 5, United  
13 States Code, is amended—

14 (A) in subparagraph (B)(ii), by striking  
15 out “Within 2 years after the date of the mar-  
16 riage, the” and inserting in lieu thereof “The”;  
17 and

18 (B) by amending subparagraph (C) to read  
19 as follows:

20 “(C) The Office shall, by regulation, provide for  
21 payment of the deposit required under subparagraph  
22 (B)(ii) by a reduction in the annuity of the employee  
23 or Member. The reduction shall, to the extent prac-  
24 ticable, be designed so that the present value of the  
25 future reduction is actuarially equivalent to the de-

1       posit required under subparagraph (B)(ii), except  
2       that total reductions in the annuity of an employee  
3       or Member to pay deposits required by this sub-  
4       section or subsection (j)(3) shall not exceed 25 per-  
5       cent of the annuity computed under subsections (a)  
6       through (i), (n), and (q), including adjustments  
7       under section 8340. The reduction required by this  
8       subparagraph, which shall be effective on the same  
9       date as the election under subparagraph (A), shall  
10      be permanent and unaffected by any future termi-  
11      nation of the marriage. Such reduction shall be inde-  
12      pendent of and in addition to the reduction required  
13      under subparagraph (A).”.

14           (3) DEPOSITS.—Section 8334(h) of title 5,  
15      United States Code, is amended by striking out  
16      “and by section 8339(j)(5)(C) and the last sentence  
17      of section 8339(k)(2) of this title”.

18           (b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—  
19      Section 8418 of title 5, United States Code, is amended—

20           (1) in subsection (a)(1), by striking out “, be-  
21      fore the expiration of the 2-year period involved,”;  
22      and

23           (2) by amending subsection (b) to read as fol-  
24      lows:

1       “(b) The Office shall, by regulation, provide for pay-  
2 ment of the deposit required under subsection (a) by a  
3 reduction in the annuity of the employee or Member. The  
4 reduction shall, to the extent practicable, be designed so  
5 that the present value of the future reduction is actuarially  
6 equivalent to the deposit required under subsection (a),  
7 except that the total reductions in the annuity of an em-  
8 ployee or Member to pay deposits required by this section  
9 shall not exceed 25 percent of the annuity computed under  
10 section 8415 or section 8452, including adjustments under  
11 section 8462. The reduction required by this subsection,  
12 which shall be effective at the same time as the election  
13 under section 8416 (b) and (c) or section 8417(b), shall  
14 be permanent and unaffected by any future termination  
15 of the marriage or the entitlement of the former spouse.  
16 Such reduction shall be independent of and in addition  
17 to the reduction required under section 8416 (b) and (c)  
18 or section 8417(b).”.

19       (c) EFFECTIVE DATE.—

20           (1) IN GENERAL.—The amendments made by  
21 this section shall take effect on the first day of the  
22 first month beginning 30 days after the date of the  
23 enactment of this Act and shall apply to all deposits  
24 required under section 8339(j) (3) and (5),  
25 8339(k)(2), or 8418 of title 5, United States Code,

1 on which no payment has been made prior to such  
2 effective date.

3 (2) PARTIAL DEPOSIT.—For any deposit re-  
4 quired under section 8339(j) (3) and (5),  
5 8339(k)(2), or 8418 of title 5, United States Code,  
6 or section 4 (b) and (c) of the Civil Service Retirement  
7 Spouse Equity Act of 1984 that has been partially,  
8 but not fully, paid before the effective date of  
9 this Act, the Office shall by regulation provide for  
10 determining the remaining portion of the deposit  
11 and for payment of the remaining portion of the de-  
12 posit by a prospective reduction in the annuity of the  
13 employee or Member. The reduction shall be similar  
14 to the reductions provided pursuant to the amend-  
15 ments made under this section.

## 16 **TITLE XI—JUDICIARY**

### 17 **SEC. 1101. PATENT AND TRADEMARK FEES.**

18 Section 10101 of the Omnibus Budget Reconciliation  
19 Act of 1990 (35 U.S.C. 41 note) is amended—

20 (1) in subsection (a) by striking “1995” and in-  
21 serting “1998”;

22 (2) in subsection (b)(2) by striking “1995” and  
23 inserting “1998”; and

24 (3) in subsection (c)—

1 (A) by striking “through 1995” and insert-  
2 ing “through 1998”; and

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

4 “(6) \$111,000,000 in fiscal year 1996.

5 “(7) \$115,000,000 in fiscal year 1997.

6 “(8) \$119,000,000 in fiscal year 1998.”.

7 **TITLE XII—COMMITTEE ON**  
8 **LABOR AND HUMAN RESOURCES**  
9 **Subtitle A—Student Loan**  
10 **Provisions**

11 **SEC. 12001. SHORT TITLE; REFERENCES.**

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

14 (b) **REFERENCES.**—References in this subtitle to  
15 “the Act” are references to the Higher Education Act of  
16 1965 (20 U.S.C. 1001 et seq.).

17 **CHAPTER 1—FEDERAL DIRECT STUDENT**  
18 **LOAN PROGRAM**

19 **SEC. 12011. FEDERAL DIRECT STUDENT LOAN PROGRAM.**

20 Part D of title IV (20 U.S.C. 1087a) is amended to  
21 read as follows:

22 **“PART D—FEDERAL DIRECT STUDENT**  
23 **LOAN PROGRAM**

24 **“SEC. 451. PURPOSE; PROGRAM AUTHORIZATION.**

25 “(a) **PURPOSE.**—It is the purpose of this part—

1           “(1) to simplify the delivery of student loans to  
2 borrowers and eliminate borrower confusion;

3           “(2) to provide a variety of repayment plans,  
4 including income contingent repayment, to borrowers  
5 so that borrowers have flexibility in managing their  
6 student loan repayment obligations, and so that  
7 those obligations do not foreclose careers in commu-  
8 nity or public service for those borrowers;

9           “(3) to replace, through an orderly transition,  
10 the Federal Family Education Loan Program under  
11 part B of this title with the Federal Direct Student  
12 Loan Program under this part;

13           “(4) to avoid the unnecessary cost, to taxpayers  
14 and borrowers, and administrative complexity associ-  
15 ated with the Federal Family Education Loan Pro-  
16 gram under part B of this title through the use of  
17 a direct student loan program; and

18           “(5) to create a more streamlined student loan  
19 program that can be managed more effectively at  
20 the Federal level.

21           “(b) PROGRAM AUTHORITY.—There are hereby made  
22 available, in accordance with the provisions of this part,  
23 such sums as may be necessary to make loans to all eligi-  
24 ble students in attendance at participating institutions of  
25 higher education selected by the Secretary (and the eligi-

1 ble parents of such students), to enable such students to  
2 pursue their courses of study at such institutions during  
3 the period beginning July 1, 1994. Such loans shall be  
4 made by participating institutions, or consortia thereof,  
5 that have agreements with the Secretary to originate  
6 loans, or by alternative originators designated by the Sec-  
7 retary to make loans for students in attendance at partici-  
8 pating institutions (and their parents).

9 **“SEC. 452. FUNDS FOR ORIGINATION OF DIRECT STUDENT**  
10 **LOANS.**

11 “(a) IN GENERAL.—The Secretary shall provide  
12 funds for student and parent loans under this part—

13 “(1) directly to an institution of higher edu-  
14 cation that has an agreement with the Secretary  
15 under section 454(a) to participate in the direct stu-  
16 dent loan program under this part and that also has  
17 an agreement with the Secretary under section  
18 454(b) to originate loans under this part; or

19 “(2) through an alternative originator des-  
20 igned by the Secretary, on the basis of the need  
21 and the eligibility of students at each participating  
22 institution, and parents of such students, for such  
23 loans.

24 “(b) FEES FOR ORIGINATION SERVICES.—

1           “(1) FEES FOR INSTITUTIONS.—The Secretary  
2 shall pay fees to institutions of higher education or  
3 consortia thereof having agreements under section  
4 454(b), in an amount established by the Secretary,  
5 to assist in meeting the costs of loan origination.  
6 Such fees—

7           “(A) shall be paid by the Secretary based  
8 on all the loans made under this part to a par-  
9 ticular borrower in the same academic year;

10           “(B) shall be subject to a sliding scale that  
11 decreases the amount of such fees as the num-  
12 ber of borrowers increases; and

13           “(C)(i) for academic year 1994–1995, shall  
14 not exceed a program-wide average of \$10 per  
15 borrower for all the loans made under this part  
16 to such borrower in the same academic year;  
17 and

18           “(ii) for succeeding academic years, the  
19 Secretary shall establish such average fee pur-  
20 suant to regulations.

21           “(2) FEES FOR ALTERNATIVE ORIGINATORS.—  
22 The Secretary shall pay fees for loan origination  
23 services to alternative originators of loans made  
24 under this part in an amount established by the Sec-  
25 retary in accordance with the terms of the contract

1 described in section 456(b) between the Secretary  
2 and each such alternative originator.

3 “(c) NO ENTITLEMENT TO PARTICIPATE OR ORIGI-  
4 NATE.—No institution of higher education shall have a  
5 right to participate in the program authorized by this part,  
6 originate loans, or perform any program function under  
7 this part. Nothing in this subsection shall be construed  
8 so as to limit the entitlement of an eligible student attend-  
9 ing a participating institution (or the eligible parent of  
10 such student) to borrow under this part nor limit the bor-  
11 rower’s contractual right against the United States to re-  
12 ceive any loan for which the student (or parent) is eligible.

13 “(d) DELIVERY OF LOAN FUNDS.—Loan funds shall  
14 be paid and delivered to an institution by the Secretary  
15 prior to the beginning of the payment period established  
16 by the Secretary in a manner that is consistent with pay-  
17 ment and delivery of basic grants under subpart 1 of part  
18 A.

19 **“SEC. 453. SELECTION OF INSTITUTIONS FOR PARTICIPA-**  
20 **TION AND ORIGINATION.**

21 “(a) PHASE-IN OF PROGRAM.—

22 “(1) GENERAL AUTHORITY.—The Secretary  
23 shall enter into agreements pursuant to section  
24 454(a) with institutions of higher education to par-  
25 ticipate in the direct student loan program under

1 this part, and agreements pursuant to section  
2 454(b) with institutions of higher education, or con-  
3 sortia thereof, to originate loans in such program,  
4 for academic years beginning on or after July 1,  
5 1994. Alternative origination services, through which  
6 an entity other than the participating institution at  
7 which the student is in attendance originates the  
8 loan, shall be provided by the Secretary, through 1  
9 or more contracts under section 456(b) or such  
10 other means as the Secretary may provide, for stu-  
11 dents attending participating institutions that do not  
12 originate direct student loans under this part. Such  
13 agreements for the academic year 1994–1995 shall,  
14 to the extent feasible, be entered into not later than  
15 January 1, 1994.

16 “(2) TRANSITION PROVISIONS.—In order to en-  
17 sure an expeditious but orderly transition from the  
18 loan programs under part B of this title to the di-  
19 rect student loan program under this part, the Sec-  
20 retary shall, in the exercise of the Secretary’s discre-  
21 tion, determine the number of institutions with  
22 which the Secretary shall enter into agreements  
23 under subsections (a) and (b) of section 454 for any  
24 academic year, except that the Secretary shall exer-

1 cise such discretion so as to achieve the following  
2 goals:

3 “(A) For academic year 1994–1995, loans  
4 made under this part shall represent 5 percent  
5 of the new student loan volume for such year.

6 “(B) For academic year 1995–1996, loans  
7 made under this part shall represent 30 percent  
8 of the new student loan volume for such year.

9 “(C) For academic year 1996–1997, loans  
10 made under this part shall represent 40 percent  
11 of the new student loan volume for such year.

12 “(D) For academic year 1997–1998 and  
13 fiscal year 1998, loans made under this part  
14 shall represent 50 percent of the new student  
15 loan volume for such years.

16 “(3) NEW STUDENT LOAN VOLUME.—For the  
17 purpose of this part, the term ‘new student loan vol-  
18 ume’ means the estimated sum of all loans that will  
19 be made, insured or guaranteed under this part and  
20 part B in the year for which the determination is  
21 made. The Secretary shall base the estimate de-  
22 scribed in the preceding sentence on the most recent  
23 program data available.

24 “(4) CASH MANAGEMENT.—The requirements  
25 of sections 3335, 6501, and 6503 of title 31, United

1 States Code (the Cash Management Improvement  
2 Act of 1990) shall apply to the program under this  
3 part only to the extent specified in a schedule estab-  
4 lished by the Secretaries of Education and the  
5 Treasury, except that such schedule shall provide for  
6 the application of all such requirements not later  
7 than July 1, 1998.

8 “(b) SELECTION CRITERIA.—

9 “(1) APPLICATION.—Each institution of higher  
10 education desiring to participate in the direct stu-  
11 dent loan program under this part shall submit an  
12 application satisfactory to the Secretary containing  
13 such information and assurances as the Secretary  
14 may require.

15 “(2) SELECTION CRITERIA.—The Secretary  
16 shall select institutions for participation in the direct  
17 student loan program under this part, and shall  
18 enter into agreements with such institutions under  
19 section 454(a), from among those institutions that  
20 submit the applications described in paragraph (1),  
21 and meet such other eligibility requirements as the  
22 Secretary shall prescribe, by, to the extent pos-  
23 sible—

24 “(A)(i) categorizing such institutions ac-  
25 cording to anticipated loan volume, length of

1 academic program, control of the institution,  
2 highest degree offered, size of student enroll-  
3 ment, percentage of students borrowing under  
4 part B, geographic location, annual loan vol-  
5 ume, default experience and composition of the  
6 student body; and

7 “(ii) beginning in academic year 1995–  
8 1996 selecting institutions that are reasonably  
9 representative of each of the categories de-  
10 scribed pursuant to clause (i); and

11 “(B) if the Secretary determines it nec-  
12 essary to carry out the purposes of this part,  
13 selecting additional institutions.

14 “(c) SELECTION CRITERIA FOR ORIGINATION.—

15 “(1) IN GENERAL.—The Secretary may enter  
16 into a supplemental agreement with an institution  
17 (or a consortium of such institutions) that—

18 “(A) has an agreement under subsection  
19 454(a);

20 “(B) desires to originate loans under this  
21 part; and

22 “(C) meets the criteria described in para-  
23 graph (2).

24 “(2) TRANSITION SELECTION CRITERIA.—For  
25 academic year 1994–1995, the Secretary may ap-

1 prove an institution to originate loans only if such  
2 institution—

3 “(A) made loans under part E of this title  
4 in academic year 1993–1994 and did not exceed  
5 the applicable maximum default rate under sec-  
6 tion 462(g) for the most recent fiscal year for  
7 which data are available;

8 “(B) is not on the reimbursement system  
9 of payment for any of the programs under sub-  
10 part 1 or 3 of part A, part C, or part E;

11 “(C) is not overdue on program or finan-  
12 cial reports or audits required under this title;

13 “(D) is not subject to an emergency ac-  
14 tion, or a limitation, suspension, or termination  
15 under section 428(b)(1)(T), 432(h), or 487(c);

16 “(E) in the opinion of the Secretary, has  
17 not had significant deficiencies identified by a  
18 State postsecondary review entity under subpart  
19 1 of part H of this title;

20 “(F) in the opinion of the Secretary, has  
21 not had severe performance deficiencies for any  
22 of the programs under this title, including such  
23 deficiencies demonstrated by audits or program  
24 reviews submitted or conducted during the 5

1           calendar years immediately preceding the date  
2           of application;

3           “(G) provides an assurance that such insti-  
4           tution has no delinquent outstanding debts to  
5           the Federal Government, unless such debts are  
6           being repaid under or in accordance with a re-  
7           payment arrangement satisfactory to the Fed-  
8           eral Government, or the Secretary in the Sec-  
9           retary’s discretion determines that the existence  
10          or amount of such debts has not been finally  
11          determined by the cognizant Federal agency;  
12          and

13          “(H) meets such other criteria as the Sec-  
14          retary may establish to protect the financial in-  
15          terest of the United States and to promote the  
16          purposes of this part.

17          “(3) REGULATIONS GOVERNING APPROVAL  
18          AFTER TRANSACTION.—For academic year 1995–  
19          1996 and subsequent academic years, the Secretary  
20          shall promulgate and publish in the Federal Register  
21          regulations governing the approval of institutions to  
22          originate loans under this part in accordance with  
23          section 458(a)(2).

24          “(d) CONSORTIA.—Subject to such requirements as  
25          the Secretary may prescribe, eligible institutions of higher

1 education with agreements under section 454(a) may  
2 apply to the Secretary as consortia to originate loans  
3 under this part for students in attendance at such institu-  
4 tions. Such institutions shall each be required to meet the  
5 requirements of subsection (c) with respect to loan origi-  
6 nation.

7 **“SEC. 454. AGREEMENTS WITH INSTITUTIONS.**

8       “(a) PARTICIPATION AGREEMENTS.—An agreement  
9 with any institution of higher education for participation  
10 in the direct student loan program under this part shall—

11               “(1) provide for the establishment and mainte-  
12 nance of a direct student loan program at the insti-  
13 tution under which the institution will—

14                       “(A) identify eligible students who seek  
15 student financial assistance at such institution  
16 in accordance with section 484;

17                       “(B) estimate the need of each such stu-  
18 dent as required by part F of this title for an  
19 academic year, except that, any loan obtained  
20 by a student under this part with the same  
21 terms as loans made under section 428H (ex-  
22 cept as otherwise provided in this part), or a  
23 loan obtained by a parent under this part with  
24 the same terms as loans made under section  
25 428B (except as otherwise provided in this

1 part), or obtained under any State-sponsored or  
2 private loan program, may be used to offset the  
3 expected family contribution of the student for  
4 that year;

5 “(C) provide a statement that certifies the  
6 eligibility of any student to receive a loan under  
7 this part that is not in excess of the annual or  
8 aggregate limit applicable to such loan, except  
9 that the institution may, in exceptional cir-  
10 cumstances identified by the Secretary, refuse  
11 to certify a statement that permits a student to  
12 receive a loan under this part, or certify a loan  
13 amount that is less than the student’s deter-  
14 mination of need (as determined under part F  
15 of this title), if the reason for such action is  
16 documented and provided in written form to  
17 such student;

18 “(D) set forth a schedule for disbursement  
19 of the proceeds of the loan in installments, con-  
20 sistent with the requirements of section 428G  
21 (other than subsection (b)(1) of such section);  
22 and

23 “(E) provide timely and accurate informa-  
24 tion—

1           “(i) concerning the status of student  
2           borrowers (and students on whose behalf  
3           parents borrow under this part) while such  
4           students are in attendance at the institu-  
5           tion and concerning any new information  
6           of which the institution becomes aware for  
7           such students (or their parents) after such  
8           borrowers leave the institution, to the Sec-  
9           retary for the servicing and collecting of  
10          loans made under this part; and

11          “(ii) if the institution does not have  
12          an agreement with the Secretary under  
13          subsection (b), concerning student eligi-  
14          bility and need, as determined under sub-  
15          paragraphs (A) and (B), to the Secretary  
16          as needed for the alternative origination of  
17          loans to eligible students and parents in  
18          accordance with this part;

19          “(2) provide assurances that the institution will  
20          comply with requirements established by the Sec-  
21          retary relating to student loan information with re-  
22          spect to loans made under this part;

23          “(3) provide that the institution accepts respon-  
24          sibility and financial liability stemming from its fail-

1        ure to perform its functions pursuant to the agree-  
2        ment;

3            “(4) provide that students at the institution  
4        and their parents (with respect to such students)  
5        will be eligible to participate in the programs under  
6        part B of this title at the discretion of the Secretary  
7        for the period during which such institution partici-  
8        pates in the direct student loan program under this  
9        part;

10           “(5) provide for the implementation of a quality  
11        assurance system, as established by the Secretary  
12        and developed in consultation with institutions of  
13        higher education, to ensure that the institution is  
14        complying with program requirements and meeting  
15        program objectives;

16           “(6) provide that the institution will not charge  
17        any fees of any kind, however described, to student  
18        or parent borrowers for origination activities or the  
19        provision of any information necessary for a student  
20        or parent to receive a loan under this part, or any  
21        benefits associated with such loan; and

22           “(7) include such other provisions as the Sec-  
23        retary determines are necessary to protect the inter-  
24        ests of the United States and to promote the pur-  
25        poses of this part.

1       “(b) ORIGINATION.—An agreement with any institu-  
2 tion of higher education, or consortia thereof, for the origi-  
3 nation of loans under this part shall—

4           “(1) supplement the agreement entered into in  
5 accordance with subsection (a);

6           “(2) include provisions established by the Sec-  
7 retary that are similar to the participation agree-  
8 ment provisions described in paragraphs (1)(E)(ii),  
9 (2), (3), (4), (5), (6), and (7) of subsection (a), as  
10 modified to relate to the origination of loans by the  
11 institution or consortium;

12           “(3) provide that the institution or consortium  
13 will originate loans to eligible students and parents  
14 in accordance with this part; and

15           “(4) provide that the note or evidence of obliga-  
16 tion on the loan shall be the property of the Sec-  
17 retary.

18       “(c) WITHDRAWAL AND TERMINATION PROCE-  
19 DURES.—The Secretary shall establish procedures by  
20 which institutions or consortia may withdraw or be termi-  
21 nated from the program under this part.

22 **“SEC. 455. TERMS AND CONDITIONS OF LOANS.**

23       “(a) IN GENERAL.—

24           “(1) PARALLEL TERMS, CONDITIONS, BENE-  
25 FITS, AND AMOUNTS.—Unless otherwise specified in

1 this part, loans made to borrowers under this part  
2 shall have the same terms, conditions, and benefits  
3 as loans made to borrowers under sections 428,  
4 428B, and 428H of this title.

5 “(2) DESIGNATION OF LOANS.—Loans made to  
6 borrowers under this part that, except as otherwise  
7 specified in this part, have the same terms, condi-  
8 tions, and benefits as loans made to borrowers  
9 under—

10 “(A) section 428 shall be known as ‘Fed-  
11 eral Direct Stafford Loans’;

12 “(B) section 428B shall be known as ‘Fed-  
13 eral Direct PLUS Loans’; and

14 “(C) section 428H shall be known as ‘Fed-  
15 eral Direct Unsubsidized Stafford Loans’.

16 “(b) INTEREST RATE.—

17 “(1) RATES FOR FDSL AND FDUSL.—(A) For  
18 Federal Direct Stafford Loans and Federal Direct  
19 Unsubsidized Stafford Loans for which the first dis-  
20bursement is made on or after July 1, 1994, the ap-  
21plicable rate of interest shall, during any 12-month  
22period beginning on July 1 and ending on June 30,  
23be determined on the preceding June 1 and be equal  
24to—

1           “(i) the bond equivalent rate of 91-day  
2           Treasury bills auctioned at the final auction  
3           held prior to such June 1; plus

4           “(ii) 3.1 percent,  
5           except that such rate shall not exceed 8.25 percent.

6           “(B)(i) Notwithstanding the provisions of sub-  
7           paragraph (A), with respect to any Federal Direct  
8           Stafford Loan or Federal Direct Unsubsidized Staf-  
9           ford Loan for which the first disbursement is made  
10          on or after July 1, 1994, the applicable rate of inter-  
11          est for interest which accrues—

12           “(I) prior to the beginning of the repay-  
13          ment period of the loan; or

14           “(II) during the period in which principal  
15          need not be paid (whether or not such principal  
16          is in fact paid) by reason of a provision de-  
17          scribed in section 428(b)(1)(M) or  
18          427(a)(2)(C),

19          shall not exceed the rate determined under clause  
20          (ii).

21           “(ii) For purposes of clause (i) the rate deter-  
22          mined under this clause shall, during any 12-month  
23          period beginning on July 1 and ending on June 30,  
24          be determined on the preceding June 1 and be equal  
25          to—

1           “(I) the bond equivalent rate of 91-day  
2           Treasury bills auctioned at the final auction  
3           prior to such June 1; plus

4           “(II) 2.5 percent,  
5           except that such rate shall not exceed 8.25 percent.

6           “(2) RATES FOR FDPLUS.—For Federal Direct  
7           PLUS Loans for which the first disbursement is  
8           made on or after July 1, 1994, the applicable rate  
9           of interest shall, during any 12-month period begin-  
10          ning on July 1 and ending on June 30, be deter-  
11          mined on the preceding June 1 and be equal to—

12           “(A) the bond equivalent rate of 52-week  
13          Treasury bills auctioned at final auction held  
14          prior to such June 1; plus

15           “(B) 3.1 percent,  
16          except that such rate shall not exceed 9 percent.

17           “(3) PUBLICATION.—The Secretary shall deter-  
18          mine the applicable rates of interest under this sub-  
19          section after consultation with the Secretary of  
20          Treasury and shall publish such rate in the Federal  
21          Register as soon as practicable after the date of de-  
22          termination.

23           “(c) ORIGINATION FEE.—The Secretary shall charge  
24          the borrower of a loan made under this part an origination  
25          fee of 4.0 percent of the principal amount of the loan.

1 “(d) REPAYMENT PLANS.—

2 “(1) DESIGN AND SELECTION.—Consistent with  
3 criteria established by the Secretary, the Secretary  
4 shall offer a borrower of a loan made under this part  
5 a variety of plans for repayment of such loan, in-  
6 cluding principal and interest on the loan. The bor-  
7 rower shall be entitled to accelerate, without penalty,  
8 repayment on the borrowers loans under this part.  
9 The borrower may choose—

10 “(A) a standard repayment plan, with a  
11 fixed annual repayment amount paid over a  
12 fixed period of time;

13 “(B) an extended repayment plan, with a  
14 fixed annual repayment amount paid over an  
15 extended period of time, except that the bor-  
16 rower shall annually repay a minimum amount  
17 determined by the Secretary in accordance with  
18 section 428(b)(1)(L);

19 “(C) a graduated repayment plan, with an-  
20 nual repayment amounts established at 2 or  
21 more graduated levels and paid over a fixed or  
22 extended period of time, except that the borrow-  
23 er’s scheduled payments shall not be less than  
24 50 percent, nor more than 150 percent, of what  
25 the amortized payment on the amount owed

1           would be if the loan were repaid under the  
2           standard repayment plan; and

3           “(D) an income contingent repayment  
4           plan, with varying annual repayment amounts  
5           based on the income of the borrower, paid over  
6           an extended period of time, not to exceed 20  
7           years, except that the plan described in this  
8           subparagraph shall not be available to the bor-  
9           rower of a Federal Direct PLUS loan.

10           “(2) SELECTION BY SECRETARY.—If a bor-  
11           rower of a loan made under this part does not select  
12           a repayment plan described in paragraph (1), the  
13           Secretary may provide the borrower with a repay-  
14           ment plan described in subparagraph (A), (B), or  
15           (C) of paragraph (1).

16           “(3) CHANGES IN SELECTIONS.—The borrower  
17           of a loan made under this part may change the bor-  
18           rower’s selection of a repayment plan under para-  
19           graph (1), or the Secretary’s selection of a plan for  
20           the borrower under paragraph (2), as the case may  
21           be, under such terms and conditions as may be es-  
22           tablished by the Secretary.

23           “(4) ALTERNATIVE REPAYMENT PLANS.—The  
24           Secretary may provide, on a case by case basis, an  
25           alternative repayment plan to a borrower of a loan

1 made under this part who demonstrates to the satis-  
2 faction of the Secretary that the terms and condi-  
3 tions of the repayment plans available under para-  
4 graph (1) are not adequate to accommodate the bor-  
5 rower's exceptional circumstances. In designing such  
6 alternative repayment plans, the Secretary shall en-  
7 sure that such plans do not exceed the cost to the  
8 Federal Government, as determined on the basis of  
9 the present value of future payments by such bor-  
10 rowers, of loans made using the plans available  
11 under paragraph (1).

12 “(5) REPAYMENT AFTER DEFAULT.—The Sec-  
13 retary may require any borrower who has defaulted  
14 on a loan made under this part to—

15 “(A) pay all reasonable collection costs as-  
16 sociated with such loan; and

17 “(B) repay the loan pursuant to an income  
18 contingent repayment plan.

19 “(e) INCOME CONTINGENT REPAYMENT.—

20 “(1) INFORMATION AND PROCEDURES.—The  
21 Secretary may obtain such information as is reason-  
22 ably necessary regarding the income of a borrower  
23 (and the borrower's spouse, if applicable) of a loan  
24 made under this part that is, or may be, repaid pur-  
25 suant to income contingent repayment, for the pur-

1 pose of determining the annual repayment obligation  
2 of the borrower. Return and return information (as  
3 defined in section 6103 of the Internal Revenue  
4 Code of 1986) may be obtained under the preceding  
5 sentence only to the extent authorized by section  
6 6103(l)(13) of such Code. The Secretary shall estab-  
7 lish procedures for determining the borrower's re-  
8 payment obligation on that loan for such year, and  
9 such other procedures as are necessary to implement  
10 effectively income contingent repayment.

11 “(2) REPAYMENT BASED ON ADJUSTED GROSS  
12 INCOME.—A repayment schedule for a loan made  
13 under this part and repaid pursuant to income con-  
14 tingent repayment shall be based on the adjusted  
15 gross income (as defined in section 62 of the Inter-  
16 nal Revenue Code of 1986) of the borrower or, if the  
17 borrower is married and files a Federal income tax  
18 return jointly with the borrower's spouse, on the ad-  
19 justed gross income of the borrower and the borrow-  
20 er's spouse.

21 “(3) ADDITIONAL DOCUMENTS.—A borrower  
22 who chooses, or is required, to repay a loan made  
23 under this part pursuant to income contingent re-  
24 payment, and for whom adjusted gross income is un-  
25 available or does not reasonably reflect the borrow-

1 er's current income, shall provide to the Secretary  
2 other documentation of income satisfactory to the  
3 Secretary, which documentation the Secretary may  
4 use to determine an appropriate repayment schedule.

5 “(4) REPAYMENT SCHEDULES.—Income contin-  
6 gent repayment schedules shall be established by  
7 regulations promulgated by the Secretary and shall  
8 require payments that vary in relation to the appro-  
9 priate portion of the annual income of the borrower  
10 (and the borrower's spouse, if applicable) as deter-  
11 mined by the Secretary.

12 “(5) CALCULATION OF BALANCE DUE.—The  
13 balance due on a loan made under this part that is  
14 repaid pursuant to income contingent repayment  
15 shall equal the unpaid principal amount of the loan,  
16 any accrued interest, and any fees, such as late  
17 charges, assessed on such loan. The Secretary may  
18 promulgate regulations limiting the amount of inter-  
19 est that may be capitalized on such loan, and the  
20 timing of any such capitalization.

21 “(6) NOTIFICATION TO BORROWERS.—The Sec-  
22 retary shall establish procedures under which a bor-  
23 rower of a loan made under this part who chooses  
24 or is required to repay such loan pursuant to income  
25 contingent repayment is notified of the terms and

1 conditions of such plan, including notification of  
2 such borrower—

3 “(A) that the Internal Revenue Service will  
4 disclose to the Secretary tax return information  
5 as authorized under section 6103(l)(13) of the  
6 Internal Revenue Code of 1986; and

7 “(B) that if a borrower considers that spe-  
8 cial circumstances, such as a loss of employ-  
9 ment by the borrower or the borrower’s spouse,  
10 warrant an adjustment in the borrower’s loan  
11 repayment as determined using the information  
12 described in subparagraph (A), or the alter-  
13 native documentation described in paragraph  
14 (3), the borrower may contact the Secretary,  
15 who shall determine whether such adjustment is  
16 appropriate, in accordance with criteria estab-  
17 lished by the Secretary.

18 “(f) DEFERMENT.—

19 “(1) EFFECT ON PRINCIPAL AND INTEREST.—  
20 A borrower of a loan made under this part who  
21 meets the requirements described in paragraph (2)  
22 shall be eligible for a deferment, during which peri-  
23 odic installments of principal need not be paid, and  
24 interest—

1           “(A) shall not accrue, in the case of a Fed-  
2           eral Direct Stafford Loan or a Federal Direct  
3           Consolidation Loan that consolidated only Fed-  
4           eral Direct Stafford Loans, or a combination of  
5           such loans and Federal Stafford Loans for  
6           which the student borrower received an interest  
7           subsidy under section 428; or

8           “(B) shall accrue and be capitalized or  
9           paid by the borrower, in the case of a Federal  
10          Direct PLUS Loan, a Federal Direct  
11          Unsubsidized Stafford Loan, or a Federal Di-  
12          rect Consolidation Loan other than loans de-  
13          scribed in subparagraph (A).

14          “(2) ELIGIBILITY.—A borrower of a loan made  
15          under this part shall be eligible for a deferment dur-  
16          ing any period—

17                 “(A) during which the borrower—

18                         “(i) is carrying at least one-half the  
19                         normal full-time work load for the course  
20                         of study that the borrower is pursuing, as  
21                         determined by the eligible institution (as  
22                         such term is defined in section 435) the  
23                         borrower is attending; or

24                         “(ii) is pursuing a course of study  
25                         pursuant to a graduate fellowship program

1 approved by the Secretary, or pursuant to  
2 a rehabilitation training program for indi-  
3 viduals with disabilities approved by the  
4 Secretary,

5 except that no borrower shall be eligible for a  
6 deferment under this subparagraph, or a loan  
7 made under this part (other than a Federal Di-  
8 rect PLUS Loan or a Federal Direct Consolida-  
9 tion Loan), while serving in a medical intern-  
10 ship or residency program;

11 “(B) not in excess of 3 years during which  
12 the borrower is seeking and unable to find full-  
13 time employment;

14 “(C) not in excess of 3 years during which  
15 the Secretary determines, in accordance with  
16 regulations prescribed under section 435(o),  
17 that the borrower has experienced or will expe-  
18 rience an economic hardship, regardless of the  
19 reason for such hardship.

20 “(g) FEDERAL DIRECT CONSOLIDATION LOANS.—A  
21 borrower of a loan made under this part may consolidate  
22 such loan with the loans described in section 428C(a)(4)  
23 and section 428C(d)(1)(C) only under such terms and con-  
24 ditions as the Secretary shall establish pursuant to regula-  
25 tions promulgated under this part. Loans made under this

1 subsection shall be known as ‘Federal Direct Consolida-  
2 tion Loans’.

3 “(h) BORROWER DEFENSES.—Notwithstanding any  
4 other provision of law, the Secretary shall specify in regu-  
5 lations (except as authorized under section 458(a)), which  
6 acts or omissions of an institution of higher education a  
7 borrower may assert as a defense to repayment of a loan  
8 made under this part, except that in no event may a bor-  
9 rower recover from the Secretary, in any action arising  
10 from or relating to a loan made under this part, an  
11 amount in excess of the amount such borrower has repaid  
12 on such loan.

13 “(i) OPTICALLY IMAGED DOCUMENTS.—Records  
14 maintained in accordance with section 484A(c) may be  
15 used in any proceeding, as permitted pursuant to section  
16 484A(c), with respect to a loan made under this part.

17 “(j) NONDISCHARGEABILITY IN BANKRUPTCY.—Not-  
18 withstanding any other provision of law, a loan made  
19 under this part shall not be dischargeable in any Federal  
20 or State bankruptcy proceeding.

21 “(k) LOAN APPLICATION AND PROMISSORY NOTE.—  
22 The common financial reporting form required in  
23 483(a)(1) shall constitute the application for loans made  
24 under this part. The Secretary shall develop, print, and

1 distribute to participating institutions a standard promis-  
2 sory note and loan disclosure form.

3 “(l) LOAN DISBURSEMENT.—

4 “(1) IN GENERAL.—Payments of loan proceeds  
5 to students under this part shall be made by credit-  
6 ing the student’s account for tuition and fees, and,  
7 in the case of institutionally owned housing, room  
8 and board. The student may elect to have the insti-  
9 tution provide other such goods and services by cred-  
10 iting the student’s account. Loan proceeds that re-  
11 main after the application of the previous sentences  
12 shall be delivered to the borrower in accordance with  
13 section 427(a)(3).

14 “(2) PAYMENT PERIODS.—The Secretary shall  
15 establish periods for the payments described in para-  
16 graph (2) in a manner that is consistent with pay-  
17 ment of basic grants under subpart 1 of part A.

18 “(m) FISCAL CONTROL AND FUND ACCOUNTABIL-  
19 ITY.—

20 “(1) IN GENERAL.—(A) An institution shall  
21 maintain financial records in a manner consistent  
22 with records maintained for other programs under  
23 title IV.

1           “(B) An institution may maintain loan funds  
2           under this part in the same account as other Fed-  
3           eral student financial assistance.

4           “(2) PAYMENTS; REFUNDS; ENROLLMENT STA-  
5           TUS.—Payments, refunds and enrollment status  
6           shall be reconciled in a manner and schedule that is  
7           consistent with the manner and schedule set forth  
8           for the quarterly submission of a payment summary  
9           report required of institutions participating in the  
10          program assisted under subpart 1 of part A.

11          “(3) TRANSACTION HISTORIES.—All transaction  
12          histories under this part shall be maintained using  
13          the same system designated by the Secretary for the  
14          provision of basic grants under subpart 1 of part A.

15          “(n) ENTITLEMENT PROVISION.—Except as provided  
16          in section 454(a)(1)(C), an eligible student in attendance  
17          at a participating institution (or a parent borrower) shall  
18          have a contractual right against the United States to re-  
19          ceive any loan under this part for which such student (or  
20          parent) is eligible.

21          **“SEC. 456. CONTRACTS.**

22          “(a) CONTRACTS FOR SUPPLIES AND SERVICES.—

23                  “(1) IN GENERAL.—The Secretary may award  
24                  1 or more contracts for services and supplies de-  
25                  scribed in subsection (b). The entities with which the

1 Secretary may enter into such contracts shall in-  
2 clude entities which the Secretary determines are  
3 qualified to provide such services and supplies and  
4 will comply with the procedures applicable to the  
5 award of such contracts. In the case of awarding  
6 contracts for the servicing of loans under this part,  
7 the Secretary shall only enter into contracts with en-  
8 tities that have extensive experience and a dem-  
9 onstrated record in loan servicing and collection.

10 “(2) EXEMPTION.—The Secretary may award,  
11 through June 30, 1998, contracts under this section  
12 without regard to the requirements in section 303 of  
13 the Federal Property and Administrative Services  
14 Act of 1949, section 18 of the Office of Federal Pro-  
15 curement Policy Act, and section 8(e) of the Small  
16 Business Act, and the corresponding requirements of  
17 the Federal Acquisition Regulations, if the Secretary  
18 determines, on a case-by-case basis, that exemption  
19 from such requirements is in the public interest and  
20 necessary for the orderly transition from the loan  
21 programs under part B to the direct student loan  
22 program under this part.

23 “(3) APPLICATION OF REQUIREMENTS.—On  
24 and after July 1, 1998, all statutory and regulatory

1 requirements described in paragraph (2) shall apply  
2 to the award of a contract under this section.

3 “(b) CONTRACTS FOR ORIGINATION, SERVICING, AND  
4 DATA SYSTEMS.—The Secretary may enter into 1 or more  
5 contracts for—

6 “(1) the alternative origination of loans to stu-  
7 dents attending institutions with agreements to par-  
8 ticipate in the program under this part (or their par-  
9 ents), if such institutions do not have agreements  
10 with the Secretary under section 454(b);

11 “(2) the servicing and collection of loans made  
12 under this part;

13 “(3) the establishment and operation of 1 or  
14 more data systems for the maintenance of records  
15 on all loans made under this part;

16 “(4) services to assist in the orderly transition  
17 from the loan programs under part B to the direct  
18 student loan program under this part; and

19 “(5) such other aspects of the direct student  
20 loan program as the Secretary determines are nec-  
21 essary to ensure the successful operation of the pro-  
22 gram.

1 **“SEC. 457. PLAN FOR IRS PARTICIPATION AND OTHER RE-**  
2 **PAYMENT OPTIONS.**

3 “(a) IN GENERAL.—The Secretaries of Education  
4 and the Treasury shall, within 6 months of the date of  
5 enactment of this part, submit a plan to the President  
6 that—

7 “(1) provides for—

8 “(A) repayment of loans made under this  
9 part through wage withholding by the Internal  
10 Revenue Service;

11 “(B) procedures for the resolution of dis-  
12 putes through the Secretary of Education; and

13 “(C) an alternate system of fees and pen-  
14 alties, which shall not include the seizure of real  
15 property, by the Internal Revenue Service for  
16 the nonpayment of amounts due; and

17 “(2) evaluates the feasibility of other wage-  
18 withholding repayment options for such loans.

19 “(b) PRESIDENTIAL DETERMINATION.—If the Presi-  
20 dent determines that the implementation of 1 or more re-  
21 payment options contained in the plan described in sub-  
22 section (a) would further the purposes of this part, the  
23 Secretaries of Education and the Treasury shall be au-  
24 thorized to take such actions as are reasonable and nec-  
25 essary to implement such repayment options, including en-

1 tering into an agreement pursuant to section 6306 of the  
2 Internal Revenue Code of 1986.

3 “(c) FUNDING.—The Secretary of Education may  
4 use such amounts as the Secretary of Education deter-  
5 mines necessary from the funds made available under sec-  
6 tion 460 to implement the repayment options selected by  
7 the President under subsection (b) and shall make avail-  
8 able to the Secretary of the Treasury such amounts from  
9 the funds made available under section 460 as the Sec-  
10 retaries determine to be necessary to implement the repay-  
11 ment options carried out by the Internal Revenue Service.

12 **“SEC. 458. SECRETARIAL ACTIVITIES.**

13 “(a) REGULATORY ACTIVITIES.—

14 “(1) NOTICE IN LIEU OF REGULATIONS FOR  
15 FIRST YEAR OF PROGRAM.—The Secretary shall  
16 publish in the Federal Register whatever standards,  
17 criteria, and procedures, consistent with the provi-  
18 sions of this part, that the Secretary, in consultation  
19 with members of the higher education community,  
20 determine are reasonable and necessary to the suc-  
21 cessful implementation of the direct student loan  
22 program under this part in academic year 1994–  
23 1995. Section 431 of the General Education Provi-  
24 sions Act shall not apply to the publication of such  
25 standards, criteria, and procedures.

1           “(2) NEGOTIATED RULEMAKING.—Beginning  
2           with academic year 1995–1996, all standards, cri-  
3           teria, procedures and regulations implementing this  
4           part shall be subject to negotiated rulemaking, in-  
5           cluding all such standards, criteria, procedures and  
6           regulations promulgated from the date of enactment  
7           of this part.

8           “(b) CLOSING DATE FOR APPLICATIONS FROM IN-  
9           STITUTIONS.—The Secretary shall establish a date not  
10          later than October 1, 1993, as the closing date for receiv-  
11          ing applications from institutions of higher education de-  
12          siring to participate in the direct loan program under this  
13          part in academic year 1994–1995.

14          “(c) PUBLICATION OF LIST OF PARTICIPATING IN-  
15          STITUTIONS AND CONTROL GROUP.—Not later than Jan-  
16          uary 1, 1994, the Secretary shall publish in the Federal  
17          Register a list of the institutions of higher education se-  
18          lected to participate in the direct loan program under this  
19          part in academic year 1994–1995.

20          **“SEC. 459. REPORTS.**

21          “(a) ANNUAL REPORTS.—The Secretary shall submit  
22          to the Congress not later than July 1, 1994, and each  
23          July 1 for the 4 succeeding years an annual report de-  
24          scribing the progress and status of the direct loan pro-  
25          gram.

1       “(b) RESEARCH, DEMONSTRATION, AND EVALUA-  
2 TION.—The Secretary may use a portion of the funds  
3 made available pursuant to section 460 for research on,  
4 or the demonstration or evaluation of, any aspects of the  
5 program authorized by this part, including flexible repay-  
6 ment plans.

7       “(c) GAO INTERIM FINAL REPORT.—The Comptrol-  
8 ler General shall submit to the Congress not later than  
9 January 1, 1997, an interim final report evaluating the  
10 experience of the Department of Education, the participat-  
11 ing institutions of higher education, students, and parents  
12 with respect to the direct student loan program. The re-  
13 port shall include—

14           “(1) the administrative costs, including costs  
15 per loan, incurred by participating institutions of  
16 higher education in administering the direct student  
17 loan program;

18           “(2) the administrative costs, including costs  
19 per loan, incurred by the Department of Education  
20 and its contractors in carrying out its responsibil-  
21 ities, including the costs of origination, data sys-  
22 tems, servicing, and collection;

23           “(3) an evaluation of the effectiveness of the di-  
24 rect student loan program in providing services to  
25 students and parents, including loan application,

1 loan origination, student financial aid packaging,  
2 tracking of student status, responsiveness to student  
3 inquiries and processing of deferments, forbearances,  
4 and repayments;

5 “(4) the frequency and cost of borrower delin-  
6 quency and default under the direct student loan  
7 program and losses incurred by institutions of high-  
8 er education and servicers, including losses caused  
9 by improper origination or servicing of loans;

10 “(5) the timeliness of capital availability to in-  
11 stitutions of higher education and of loans to stu-  
12 dents and parents and the cost of loan capital;

13 “(6) an evaluation of the effectiveness of the in-  
14 come contingent repayment option;

15 “(7) a comparison of the experience of institu-  
16 tions of higher education, students, and parents par-  
17 ticipating in direct student loan program with the  
18 experience of institutions, students, and parents in  
19 the control group described in subsection (e) with re-  
20 spect to the subjects indicated in paragraphs (1)  
21 through (6) of this subsection;

22 “(8) an evaluation of the administrative per-  
23 formance of the Department;

24 “(9) an analysis of the reasons institutions se-  
25 lected by the Secretary to participate in the direct

1 student loan program chose not to participate and  
2 the reasons institutions withdrew or were terminated  
3 from such program;

4 “(10) an analysis of the experience of borrowers  
5 with loans under both this part and part B and rec-  
6 ommendations for the most effective repayment pro-  
7 cedures for such borrowers;

8 “(11) a comparison of the cost of loan capital  
9 for loans for the direct student loan program with  
10 the cost of loan capital for the comparable programs  
11 in part B of this title;

12 “(12) an analysis, where practicable, of the ex-  
13 perience of institutions which participate as part of  
14 a consortia; and

15 “(13) recommendations for modifications, con-  
16 tinuation, expansion, suspension, or termination of  
17 the direct student loan program or replacement of  
18 all or some of the programs authorized by part B.

19 “(d) GAO FINAL REPORT.—The Comptroller Gen-  
20 eral shall submit to the Congress not later than May 1,  
21 1998, a final report evaluating the experience of the De-  
22 partment of Education, the participating institutions of  
23 higher education, and students with respect to the direct  
24 student loan program. The report shall include the same  
25 matters provided for in subsection (c) of this section.

1       “(e) CONTROL GROUP.—To assist the Comptroller  
2 General in preparing the reports required by subsections  
3 (c) and (d) of this section, the Secretary shall select a con-  
4 trol group of institutions of higher education, which rep-  
5 resent a cross-section of all institutions of higher edu-  
6 cation participating in part B of this title and which is  
7 comparable to the cross-section of institutions of higher  
8 education selected for participating in the direct student  
9 loan program. The Secretary shall select the control  
10 groups in the same manner that the institutions of higher  
11 education are selected to participate in the direct student  
12 loan program.

13       “(f) TREATMENT OF COSTS.—In reporting with re-  
14 spect to costs in the reports required by subsections (c)  
15 and (d) of this section, the Comptroller General shall re-  
16 port separately the nonrecurrent costs such as start-up  
17 costs associated with the direct student loan program, the  
18 administrative costs incurred by institutions of higher edu-  
19 cation in providing information to enable the Comptroller  
20 General to prepare the reports required by subsections (c)  
21 and (d) of this section and the normal costs of operating  
22 the direct student loan program.

23 **“SEC. 460. FUNDS FOR ADMINISTRATIVE EXPENSES.**

24       “(a) IN GENERAL.—In each fiscal year beginning  
25 with fiscal year 1994, there shall be available to the Sec-

1 retary of Education from funds not otherwise appro-  
2 priated, funds to be obligated for administrative costs  
3 under this part, including the costs of the transition from  
4 the loan programs under part B to the direct student loan  
5 program under this part and transition support for the  
6 expenses of guaranty agencies in servicing outstanding  
7 loans in their portfolios and in guaranteeing new loans,  
8 not to exceed \$20,000,000 in fiscal year 1994,  
9 \$70,000,000 in fiscal year 1995, \$170,000,000 in fiscal  
10 year 1996, \$305,000,000 in fiscal year 1997, and  
11 \$480,000,000 in fiscal year 1998. If in any fiscal year,  
12 the Secretary determines that additional funds for admin-  
13 istrative expenses are needed as a result of such transi-  
14 tion, or the expansion of the direct student loan program  
15 under this part, the Secretary is authorized to use funds  
16 available under this section for any succeeding fiscal year  
17 for such expenses, except that the total expenditures by  
18 the Secretary shall not exceed \$1,045,000,000 in fiscal  
19 years 1994 through 1998.

20 “(b) AVAILABILITY.—Funds made available under  
21 subsection (a) shall remain available until expended.

22 “(c) BUDGET JUSTIFICATION.—The Secretary shall  
23 include in the Department of Education’s annual budget  
24 justification to Congress a detailed description of the spe-  
25 cific activities for which the funds made available by this

1 section have been used in the prior and current years (if  
2 applicable), the activities and costs planned for the budget  
3 year, and the projection of activities and costs for each  
4 remaining year for which administrative expenses under  
5 this section are made available.

6 “(d) NOTIFICATION.—In the event the Secretary  
7 finds it necessary to use the authority provided to the Sec-  
8 retary under subsection (a) to draw funds for administra-  
9 tive expenses from a future year’s funds, the Secretary  
10 shall immediately notify the Committees on Appropria-  
11 tions of the Senate and of the House of Representatives,  
12 and the Labor and Human Resources Committee of the  
13 Senate and the Education and Labor Committee of the  
14 House of Representatives, of such action and explain the  
15 reasons for such action.

16 **“SEC. 460A. NATIONAL STUDENT LOAN REFORM COMMIS-**  
17 **SION.**

18 “(a) ESTABLISHMENT.—There is hereby established  
19 a bipartisan commission to be known as the National Stu-  
20 dent Loan Reform Commission (hereafter in this section  
21 referred to as the ‘Commission’).

22 “(b) MEMBERSHIP.—

23 “(1) IN GENERAL.—The Commission shall be  
24 composed of 15 members appointed by the President  
25 with the advice and consent of the Senate who are

1 representative of a broad combination of types of in-  
2 stitutions of higher education, of whom at least 8  
3 members shall be financial aid administrators.

4 “(2) PERIOD OF APPOINTMENT; VACANCIES.—  
5 Members shall be appointed for the life of the Com-  
6 mission. Any vacancy in the Commission shall not  
7 affect its powers, but shall be filled in the same  
8 manner as the original appointment.

9 “(3) INITIAL MEETING.—Not later than 30  
10 days after the date on which all members of the  
11 Commission have been appointed, the Commission  
12 shall hold its first meeting.

13 “(4) MEETINGS.—The Commission shall meet  
14 at the call of the Chairman.

15 “(5) QUORUM.—A majority of the members of  
16 the Commission shall constitute a quorum, but a  
17 lesser number of members may hold hearings.

18 “(6) CHAIRMAN AND VICE CHAIRMAN.—The  
19 Commission shall select a Chairman and Vice Chair-  
20 man from among its members.

21 “(c) DUTIES.—The Commission shall—

22 “(1) advise the President and the Congress on  
23 the operation of the Federal Direct Student Loan  
24 Program and the Federal Family Education Loan  
25 Program;

1           “(2) evaluate and report to the Congress re-  
2           garding such programs on not less than an annual  
3           basis; and

4           “(3) not later than January 1, 1997, report to  
5           the President and the Congress with final rec-  
6           ommendations on the advisability of replacing the  
7           Federal Family Education Loan Program with di-  
8           rect lending.

9           “(d) POWERS OF THE COMMISSION.—

10           “(1) HEARINGS.—The Commission may hold  
11           such hearings, sit and act at such times and places,  
12           take such testimony, and receive such evidence as  
13           the Commission considers advisable to carry out the  
14           purposes of this section.

15           “(2) INFORMATION FROM FEDERAL AGEN-  
16           CIES.—The Commission may secure directly from  
17           any Federal department or agency such information  
18           as the Commission considers necessary to carry out  
19           the provisions of this section. Upon request of the  
20           Chairman of the Commission, the head of such de-  
21           partment or agency shall furnish such information to  
22           the Commission.

23           “(3) POSTAL SERVICES.—The Commission may  
24           use the United States mails in the same manner and

1 under the same conditions as other departments and  
2 agencies of the Federal Government.

3 “(4) GIFTS.—The Commission may accept, use,  
4 and dispose of gifts or donations of services or prop-  
5 erty.

6 “(e) COMMISSION PERSONNEL MATTERS.—

7 “(1) COMPENSATION OF MEMBERS.—Each  
8 member of the Commission who is not an officer or  
9 employee of the Federal Government shall be com-  
10 pensated at a rate equal to the daily equivalent of  
11 the annual rate of basic pay prescribed for level IV  
12 of the Executive Schedule under section 5315 of title  
13 5, United States Code, for each day (including travel  
14 time) during which such member is engaged in the  
15 performance of the duties of the Commission. All  
16 members of the Commission who are officers or em-  
17 ployees of the United States shall serve without com-  
18 pensation in addition to that received for their serv-  
19 ices as officers or employees of the United States.

20 “(2) TRAVEL EXPENSES.—The members of the  
21 Commission shall be allowed travel expenses, includ-  
22 ing per diem in lieu of subsistence, at rates author-  
23 ized for employees of agencies under subchapter I of  
24 chapter 57 of title 5, United States Code, while

1 away from their homes or regular places of business  
2 in the performance of services for the Commission.

3 “(3) STAFF.—

4 “(A) IN GENERAL.—The Chairman of the  
5 Commission may, without regard to the civil  
6 service laws and regulations, appoint and termi-  
7 nate an executive director and such other addi-  
8 tional personnel as may be necessary to enable  
9 the Commission to perform its duties. The em-  
10 ployment of an executive director shall be sub-  
11 ject to confirmation by the Commission.

12 “(B) COMPENSATION.—The Chairman of  
13 the Commission may fix the compensation of  
14 the executive director and other personnel with-  
15 out regard to the provisions of chapter 51 and  
16 subchapter III of chapter 53 of title 5, United  
17 States Code, relating to classification of posi-  
18 tions and General Schedule pay rates, except  
19 that the rate of pay for the executive director  
20 and other personnel may not exceed the rate  
21 payable for level V of the Executive Schedule  
22 under section 5316 of such title.

23 “(4) DETAIL OF GOVERNMENT EMPLOYEES.—

24 Any Federal Government employee may be detailed  
25 to the Commission without reimbursement, and such

1 detail shall be without interruption or loss of civil  
2 service status or privilege.

3 “(5) PROCUREMENT OF TEMPORARY AND  
4 INTERMITTENT SERVICES.—The Chairman of the  
5 Commission may procure temporary and intermit-  
6 tent services under section 3109(b) of title 5, United  
7 States Code, at rates for individuals which do not  
8 exceed the daily equivalent of the annual rate of  
9 basic pay prescribed for level V of the Executive  
10 Schedule under section 5316 of such title.

11 “(6) AUTHORITY TO CONTRACT.—Subject to  
12 the Federal Property and Administrative Services  
13 Act of 1949, the Commission is authorized to enter  
14 into contracts with Federal and State agencies, pri-  
15 vate firms, institutions and individuals for the con-  
16 duct of activities necessary to the discharge of its  
17 duties and responsibilities.

18 “(7) SOURCE OF ADMINISTRATIVE SUPPORT.—  
19 Financial and administrative support services (in-  
20 cluding those related to budget and accounting, fi-  
21 nancial reporting, payroll, and personnel) shall be  
22 provided to the Commission by the General Services  
23 Administration (or other organization the Commis-  
24 sion determines appropriate) for which payment  
25 shall be made in advance or by reimbursement, from

1 funds of the Commission, in such amounts as may  
2 be agreed by the Chairman of the Commission and  
3 the Administrator of General Services (or head of  
4 another organization the Commission determines ap-  
5 propriate).

6 “(f) TERMINATION OF THE COMMISSION.—The Com-  
7 mission shall terminate 18 months after the date on which  
8 the Commission submits its report under subsection  
9 (c)(3).

10 “(g) FUNDS FOR EXPENSES OF THE COMMISSION.—  
11 In each fiscal year beginning with fiscal year 1994, there  
12 shall be available to the Secretary from funds not other-  
13 wise appropriated, funds to be obligated for the costs of  
14 activities assisted under this section, not to exceed  
15 \$2,000,000 in each of the fiscal years 1994, 1995, 1996,  
16 1997 and 1998.”.

## 17 **CHAPTER 2—STUDENT LOAN SAVINGS**

### 18 **SEC. 12021. SECRETARY’S EQUITABLE SHARE.**

19 Section 428(c)(6)(A)(ii) of the Act (20 U.S.C.  
20 1078(c)(6)(A)(ii)) is amended by striking “30 percent”  
21 and inserting “27 percent”.

### 22 **SEC. 12022. INTEREST RATES.**

23 Section 427A of the Higher Education Act of 1965  
24 (20 U.S.C. 1077a) is amended—

1           (1) in subsection (c)(4), by adding at the end  
2 the following new subparagraph:

3           “(E) Notwithstanding subparagraphs (A)  
4 and (D) for any loan made pursuant to section  
5 428B for which the first disbursement is made  
6 on or after July 1, 1994—

7                   “(i) subparagraph (B) shall be applied  
8 by substituting “3.1” for “3.25”; and

9                   “(ii) the interest rate shall not exceed  
10 9 percent.”;

11           (2) by redesignating subsections (f), (g) and (h)  
12 as subsections (g), (h) and (j), respectively;

13           (3) by adding after subsection (e) the following  
14 new subsection:

15           “(f) INTEREST RATES FOR NEW LOANS AFTER JULY  
16 1, 1994.—

17                   “(1) IN GENERAL.—Notwithstanding sub-  
18 sections (a), (b), (d) and (e) of this section, with re-  
19 spect to any loan made, insured, or guaranteed  
20 under this part (other than a loan made pursuant to  
21 sections 428B and 428C) for which the first dis-  
22 bursement is made on or after July 1, 1994, the ap-  
23 plicable rate of interest shall, during any 12-month  
24 period beginning on July 1 and ending on June 30,

1 be determined on the preceding June 1 and be equal  
2 to—

3 “(A) the bond equivalent rate of 91-day  
4 Treasury bills auctioned at the final auction  
5 held prior to such June 1; plus

6 “(B) 3.10 percent,  
7 except that such rate shall not exceed 8.25 percent.

8 “(2) CONSULTATION.—The Secretary shall de-  
9 termine the applicable rate of interest under para-  
10 graph (1) after consultation with the Secretary of  
11 the Treasury and shall publish such rate in the Fed-  
12 eral Register as soon as practicable after the date of  
13 determination.”; and

14 (4) by inserting after subsection (h) (as redesign-  
15 nated in paragraph (2)) the following new sub-  
16 section:

17 “(i) IN-SCHOOL AND GRACE PERIOD INTEREST  
18 RATES.—

19 “(1) APPLICABLE RATE.—Notwithstanding any  
20 other provision of this section, with respect to any  
21 loan for which the first disbursement is made on or  
22 after October 1, 1993, the applicable rate of interest  
23 for interest which accrues—

24 “(A) prior to the beginning of the repay-  
25 ment period of the loan; or

1           “(B) during the period in which principal  
 2           need not be paid (whether or not such principal  
 3           is in fact paid) by reason of a provision de-  
 4           scribed in section 428(b)(1)(M) or  
 5           427(a)(2)(C),  
 6           shall not exceed the rate determined under para-  
 7           graph (2).

8           “(2) METHOD OF CALCULATION.—For purposes  
 9           of paragraph (1) the rate determined under this  
 10          paragraph shall, during any 12-month period begin-  
 11          ning on July 1 and ending on June 30, be deter-  
 12          mined on the preceding June 1 and be equal to—

13                 “(A) the bond equivalent rate of 91-day  
 14                 Treasury bills auctioned at the final auction  
 15                 prior to such June 1; plus

16                 “(B) 2.5 percent,  
 17                 except that such rate shall not exceed 8.25 per-  
 18                 cent.”.

19 **SEC. 12023. LENDER AND STUDENT LOAN FEES.**

20          Section 438 of the Act (20 U.S.C. 1087–1) is amend-  
 21          ed—

22                 (1) in the heading of subsection (c) by inserting  
 23                 “FROM STUDENTS” after “ORIGINATION FEES”;

24                 (2) in subsection (c)—

25                         (A) in paragraph (2)—

- 1 (i) by striking “428B,”;
- 2 (ii) by inserting “, and part D” after
- 3 “439(o)”;
- 4 (iii) by striking “5 percent” and in-
- 5 serting “3.0 percent”;
- 6 (B) in paragraph (6), by striking “5 per-
- 7 cent” and inserting “3.0 percent”;
- 8 (3) by redesignating subsections (d) and (e) as
- 9 subsections (e) and (f), respectively; and
- 10 (4) by inserting after subsection (c) the follow-
- 11 ing new subsection:
- 12 “(d) LOAN FEES FROM LENDERS.—
- 13 “(1) DEDUCTION FROM INTEREST AND SPECIAL
- 14 ALLOWANCE SUBSIDIES.—Notwithstanding sub-
- 15 section (b), the total amount of interest and special
- 16 allowance payable under section 428(a)(3)(A) and
- 17 subsection (b) of this section, respectively, to any
- 18 holder shall be reduced by the Secretary by a loan
- 19 fee in an amount determined in accordance with
- 20 paragraph (2) of this subsection. If the total amount
- 21 of interest and special allowance payable under sec-
- 22 tion 428(a)(3)(A) and subsection (b) of this section,
- 23 respectively, is less than the amount of such loan
- 24 fee, then the Secretary shall deduct such excess

1 amount from subsequent quarters' payments until  
2 the total amount has been deducted.

3 “(2) AMOUNT OF LOAN FEES.—With respect to  
4 any loan under this part (other than loans made  
5 under sections 428B, 428C and 439(o)) for which a  
6 note or other written evidence of the loan was sent  
7 or delivered to the borrower for signing on or after  
8 October 1, 1993, the amount of the loan fee which  
9 shall be deducted under paragraph (1) shall be equal  
10 to .50 percent of the principal amount of the loan.

11 “(3) PLUS, CONSOLIDATION, SLMA LOANS.—  
12 With respect to any loans made under section 428B,  
13 428C, and 439 on or after October 1, 1993, each eli-  
14 gible lender under this part shall pay to the Sec-  
15 retary a loan fee of .50 percent of the principal  
16 amount of the loan.

17 “(4) DISTRIBUTION OF LOAN FEES.—The Sec-  
18 retary shall deposit all fees collected pursuant to  
19 paragraph (3) into the insurance fund established in  
20 section 431.”.

21 **SEC. 12024. OFFSET FEE.**

22 Subsection (h) of section 439 of the Act (20 U.S.C.  
23 1087-2(h)) is amended by adding at the end the following  
24 new paragraph:

1           “(6) OFFSET FEE.—(A) The Association shall  
2           pay to the Secretary, on a monthly basis, an offset  
3           fee calculated on an annual basis in an amount  
4           equal to 0.30 percent of the principal amount of  
5           each loan made, insured or guaranteed under this  
6           part which the Association holds on or after the date  
7           of enactment of this paragraph.

8           “(B) The Secretary shall deposit all fees col-  
9           lected pursuant to subparagraph (A) into the insur-  
10          ance fund established in section 431.”.

11 **SEC. 12025. ELIMINATION OF TAX EXEMPT FLOOR.**

12          Section 438(b)(2)(B) of the Act (20 U.S.C. 1087-  
13 1(b)(2)(B)) is amended by adding at the end the following  
14 new clause:

15           “(iv) Notwithstanding clauses (i) and (ii), the  
16          quarterly rate of the special allowance for holders of  
17          loans which are financed with funds obtained by the  
18          holder from the issuance of obligations originally is-  
19          sued on or after October 1, 1993, the income from  
20          which is excluded from gross income under the In-  
21          ternal Revenue Code of 1986, shall be 85 percent of  
22          the quarterly rate of the special allowance estab-  
23          lished under subparagraph (A). Such rate shall also  
24          apply to holders of loans which were made or pur-  
25          chased with funds obtained by the holder from col-

1       lections or default reimbursements on, or interests  
2       or other income pertaining to, eligible loans made or  
3       purchased with funds described in the preceding sen-  
4       tence of this subparagraph or from income on the  
5       investment of such funds.”.

6       **SEC. 12026. REDUCTION IN INTEREST RATE FOR CONSOLI-**  
7                                   **DATION LOANS; REBATE FEE.**

8       (a) AMENDMENT.—Section 428C of the Act (20  
9       U.S.C. 1078–3) is amended—

10               (1) in paragraph (1) of subsection (c)—

11                       (A) in subparagraph (A), by striking “or  
12                       (C)”;

13                       (B) by amending subparagraph (B) to read  
14                       as follows:

15                       “(B) A consolidation loan made on or after  
16                       October 1, 1993, shall bear interest on the un-  
17                       paid principal balance of the loan, during any  
18                       12-month period beginning on July 1 and end-  
19                       ing on June 30, determined on the preceding  
20                       June 1, which interest shall be equal to—

21                               “(i) the bond equivalent rate of 91-  
22                               day Treasury bills auctioned at the final  
23                               auction held prior to such June 1; plus

24                               “(ii) 3.10 percent,

1           except that such rate shall not exceed 9 per-  
2           cent.”; and

3                   (C) by striking subparagraph (C); and

4           (2) by adding at the end the following new sub-  
5           section:

6           “(f) INTEREST PAYMENT REBATE FEE.—

7                   “(1) IN GENERAL.—Each holder of a consolida-  
8           tion loan under this section shall pay to the Sec-  
9           retary, on a monthly basis and in such manner as  
10          the Secretary shall prescribe, a rebate fee calculated  
11          on an annual basis equal to 0.70 percent of the prin-  
12          cipal plus accrued unpaid interest on such loan.

13                   “(2) DEPOSIT.—The Secretary shall deposit all  
14          fees collected pursuant to subsection (a) into the in-  
15          surance fund established in section 431.”.

16          (b) ENFORCEMENT.—Subsection (d) of section 435  
17          of the Act (20 U.S.C. 1085(d)) is amended—

18                   (1) in the matter preceding subparagraph (A)  
19          of paragraph (1), by striking “(5)” and inserting  
20          “(6)”; and

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

23                   “(6) REBATE FEE REQUIREMENT.—To be an  
24          eligible lender under this part, an eligible lender

1 shall pay rebate fees in accordance with section  
2 428C(f).”.

3 **SEC. 12027. INSURANCE PREMIUM.**

4 (a) INSURANCE PREMIUM.—Section 428(b)(1)(H) of  
5 the Act (20 U.S.C. 1078(b)(1)(H)) is amended by striking  
6 “3 percent” and inserting “1 percent”.

7 (b) REINSURANCE FEES.—Section 428(c) of the Act  
8 is amended—

9 (1) by striking paragraph (9); and

10 (2) by redesignating paragraph (10) as para-  
11 graph (9).

12 (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall be effective on July 1, 1994.

14 **SEC. 12028. LOAN TRANSFER FEE.**

15 Section 428(b)(2) of the Act (20 U.S.C. 1078(b)(2))  
16 is amended—

17 (1) by striking “and” at the end of subpara-  
18 graph (E);

19 (2) by striking the period at the end of sub-  
20 paragraph (F) and inserting “; and”; and

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

23 “(G) provide that, if a lender or holder, on  
24 or after October 1, 1993, sells, transfers, or as-  
25 signs a loan under this part, then the transferee

1 shall pay to the Secretary a transfer fee in an  
2 amount equal to 0.25 percent the principal and  
3 accrued unpaid interest of the loan, which  
4 transfer fee shall be deposited into the insur-  
5 ance fund established in section 431, except  
6 that the provisions of this subparagraph shall  
7 not apply to any such sale, transfer or assign-  
8 ment by a lender or holder to such lender's or  
9 holder's affiliate or pursuant to—

10 “(i) a merger or other consolidation  
11 transaction; or

12 “(ii) a sale or other transfer of all or  
13 any substantial portion of such lender's or  
14 holder's business or student lending busi-  
15 ness.”.

16 **SEC. 12029. RISK SHARING.**

17 (a) GUARANTY AGENCY REINSURANCE PERCENT-  
18 AGE.—Section 428(c)(1) of the Act (20 U.S.C.  
19 1078(c)(1)) is amended—

20 (1) in subparagraph (A), by striking “100 per-  
21 cent” and inserting “98 percent”;

22 (2) in subparagraph (B)(i), by striking “90 per-  
23 cent” and inserting “88 percent”;

24 (3) in subparagraph (B)(ii), by striking “80  
25 percent” and inserting “78 percent”; and

1           (4) by adding at the end the following new sub-  
2 paragraphs:

3           “(E) Notwithstanding any other provisions  
4 of this section, in the case of a loan made pur-  
5 suant to a lender of last resort program, the  
6 Secretary shall apply the provisions of—

7           “(i) the fourth sentence of subpara-  
8 graph (A) by substituting ‘100 percent’ for  
9 ‘98 percent’;

10          “(ii) subparagraph (B)(i) by sub-  
11 stituting ‘100 percent’ for ‘88 percent’;  
12 and

13          “(iii) subparagraph (B)(ii) by sub-  
14 stituting ‘100 percent’ for ‘78 percent’.

15          “(F) Notwithstanding any other provisions  
16 of this section, in the case of an outstanding  
17 loan transferred to a guaranty agency from an-  
18 other guaranty agency pursuant to a plan ap-  
19 proved by the Secretary in response to the in-  
20 solvency of the latter such guarantee agency,  
21 the Secretary shall apply the provision of—

22          “(i) the fourth sentence of subpara-  
23 graph (A) by substituting ‘100 percent’ for  
24 ‘98 percent’;

1           “(ii) subparagraph (B)(i) by sub-  
2           stituting ‘90 percent’ for ‘88 percent’; and

3           “(iii) subparagraph (B)(ii) by sub-  
4           stituting ‘80 percent’ for ‘78 percent’.”.

5           (b) RISK SHARING BY THE STUDENT LOAN MARKET-  
6           ING ASSOCIATION.—Section 428(b)(1)(G) of the Act (20  
7           U.S.C. 1078(b)(1)(G)) is amended by inserting before the  
8           semicolon at the end thereof the following: “, except that  
9           for loans held by the Student Loan Marketing Association  
10          (other than loans made with advances to guaranty agen-  
11          cies pursuant to section 439(p)) such percentage shall be  
12          95 percent”.

13          (c) EFFECTIVE DATE.—The amendments made by  
14          this section shall apply to any loan made on or after Octo-  
15          ber 1, 1993.

16          **SEC. 12030. PLUS LOAN AMOUNTS AND DISBURSEMENTS.**

17          (a) LOAN AMOUNTS.—

18                  (1) AMENDMENT.—Section 428B(b) of the Act  
19                  (20 U.S.C. 1078–2(b)) is amended to read as fol-  
20                  lows:

21                  “(b) LIMITATIONS ON AMOUNTS OF LOANS.—

22                          “(1) ANNUAL LIMIT.—Subject to paragraph  
23                          (2), the maximum amount parents may borrow for  
24                          one student in any academic year or its equivalent

1 (as defined by regulation of the Secretary) is  
2 \$10,000.

3 “(2) LIMITATION BASED ON NEED.—Any loan  
4 under this section may be counted as part of the ex-  
5 pected family contribution in the determination of  
6 need under this title, but no loan may be made to  
7 any parent under this section for any academic year  
8 in excess of (A) the student’s estimated cost of at-  
9 tendance, minus (B) other financial aid as certified  
10 by the eligible institution under section  
11 428(a)(2)(A). The annual insurable limit on account  
12 of any student shall not be deemed to be exceeded  
13 by a line of credit under which actual payments to  
14 the borrower will not be made in any year in excess  
15 of the annual limit.”.

16 (2) EFFECTIVE DATE.—The amendment made  
17 by paragraph (1) shall be effective for loans made on  
18 or after July 1, 1994.

19 (b) MULTIPLE DISBURSEMENT REQUIRED.—

20 (1) AMENDMENT.—The matter preceding para-  
21 graph (1) of section 428B(c) of the Act (20 U.S.C.  
22 1078–2(c)) is amended by inserting “shall be dis-  
23 bursed in accordance with the requirements of sec-  
24 tion 428G and” after “under this section”.

1           (2) CONFORMING AMENDMENTS.—Section  
2           428G(e) of the Act (20 U.S.C. 1078–7(e) is amend-  
3           ed—

4                   (A) by striking “PLUS, CONSOLIDATION,”  
5                   and inserting “CONSOLIDATION”; and

6                   (B) by striking “section 428B or 428C”  
7                   and inserting “section 428C”.

### 8           **CHAPTER 3—CONFORMING AMENDMENTS**

#### 9           **Subchapter A—Conforming Amendments to** 10           **the Higher Education Act of 1965**

##### 11           **SEC. 12041. PRESERVING LOAN ACCESS.**

12           (a) PURPOSE.—It is the purpose of the amendments  
13           made by this section to provide the Secretary with flexible  
14           authority as needed to preserve access to student and par-  
15           ent loans under part B of title IV of the Act during the  
16           transition from the Federal Family Education Loan Pro-  
17           gram under such part to the Federal Direct Student Loan  
18           Program under part D of such title.

19           (b) ADVANCES TO GUARANTY AGENCIES FOR LEND-  
20           ER-OF-LAST-RESORT SERVICES.—

21                   (1) AMENDMENT.—Section 428(j) of the Act  
22                   (20 U.S.C. 1078(j)) is amended by adding at the  
23                   end the following new paragraph:

24                   “(4) ADVANCES TO GUARANTY AGENCIES FOR LEND-  
25                   ER-OF-LAST-RESORT SERVICES DURING TRANSITION TO

1 DIRECT LENDING.—(A) In order to ensure the availability  
2 of loan capital during the transition from the Federal  
3 Family Education Loan Program under this part to the  
4 Federal Direct Student Loan Program under part D of  
5 this title, the Secretary is authorized to provide a guaranty  
6 agency with additional advance funds in accordance with  
7 section 422(c)(7), with such restrictions on the use of such  
8 funds as are determined appropriate by the Secretary, in  
9 order to ensure that the guaranty agency will make loans  
10 as the lender-of-last-resort. Such agency shall make such  
11 loans in accordance with this subsection and the require-  
12 ments of the Secretary.

13 “(B) Notwithstanding any other provision in this  
14 part, a guaranty agency serving as a lender-of-last-resort  
15 under this paragraph shall be paid a fee, established by  
16 the Secretary, for making such loans in lieu of interest  
17 and special allowance subsidies, and shall be required to  
18 assign such loans to the Secretary on demand. Upon such  
19 assignment, the portion of the advance represented by the  
20 loans assigned shall be considered repaid by such guaranty  
21 agency.”.

22 (2) CONFORMING AMENDMENT.—Section  
23 422(c)(7) of the Act (20 U.S.C. 1072(c)(7)) is  
24 amended by striking all beginning with “to a guar-

1       anty agency” through the period and inserting “to  
2       a guaranty agency—

3               “(A) in accordance with section 428(j), in order  
4       to ensure that the guaranty agency shall make loans  
5       as the lender-of-last-resort during the transition  
6       from the Federal Family Education Loan Program  
7       under this part to the Federal Direct Student Loan  
8       Program under part D of this title; or

9               “(B) if the Secretary is seeking to terminate  
10       the guaranty agency’s agreement, or assuming the  
11       guaranty agency’s functions, in accordance with sec-  
12       tion 428(c)(10)(F)(v), in order to assist the agency  
13       in meeting its immediate cash needs, ensure the un-  
14       interrupted payment of claims, or ensure that the  
15       guaranty agency shall make loans as described in  
16       subparagraph (A);”.

17       (c) LENDER REFERRAL SERVICES.—Section 428(e)  
18       of the Act (20 U.S.C. 1078(e)) is amended—

19               (1) in paragraph (1)—

20                       (A) by amending the paragraph heading to  
21       read as follows: “IN GENERAL; AGREEMENTS  
22       WITH GUARANTY AGENCIES.—”;

23                       (B) by inserting the subparagraph designa-  
24       tion “(A)” immediately before “The Secretary”;

1 (C) by striking “in any State” and insert-  
2 ing “with which the Secretary has an agree-  
3 ment under subparagraph (B)””; and

4 (D) by adding at the end the following new  
5 subparagraph:

6 “(B)(i) The Secretary may enter into  
7 agreements with guaranty agencies that meet  
8 standards established by the Secretary to pro-  
9 vide lender referral services in geographic areas  
10 specified by the Secretary. Such guaranty agen-  
11 cies shall be paid in accordance with paragraph  
12 (3) for such services.

13 “(ii) The Secretary shall publish in the  
14 Federal Register whatever standards, criteria,  
15 and procedures, consistent with the provisions  
16 of this part and part D of this title, the Sec-  
17 retary determines are reasonable and necessary  
18 to provide lender referral services under this  
19 subsection and ensure loan access to student  
20 and parent borrowers during the transition  
21 from the loan programs under this part to the  
22 direct student loan programs under part D of  
23 this title. Section 431 of the General Education  
24 Provisions Act shall not apply to the publication  
25 of such standards, criteria, and procedures.”;

1 (2) in paragraph (2)—

2 (A) in the matter preceding subparagraph  
3 (A), by striking “in a State” and inserting  
4 “with which the Secretary has an agreement  
5 under paragraph (1)(B)”;

6 (B) by amending subparagraph (A) to read  
7 as follows:

8 “(A)(i) such student is either a resident of,  
9 or is accepted for enrollment in, or is attending,  
10 an eligible institution located in a geographic  
11 area for which the Secretary (I) determines  
12 that loans are not available to all eligible stu-  
13 dents, and (II) has entered into an agreement  
14 with a guaranty agency under paragraph (1)(B)  
15 to provide lender referral services; and”;

16 (3) in paragraph (3), by striking “The” and in-  
17 sserting “From funds available for costs of transition  
18 under section 460 of the Act, the”;

19 (4) by striking paragraph (5).

20 (d) STUDENT LOAN MARKETING ASSOCIATION.—  
21 Section 439(q) of the Act (20 U.S.C. 1087-2(q)) is  
22 amended—

23 (1) in paragraph (1)(A)—

24 (A) in the first sentence, by striking “the  
25 Association or its designated agent may begin

1 making loans” and inserting “the Association  
2 or its designated agent shall, not later than  
3 July 1, 1994, begin making loans to such eligi-  
4 ble borrowers”; and

5 (B) by striking the second sentence;

6 (2) in paragraph (2)(A), by striking “the Asso-  
7 ciation or its designated agent may” and inserting  
8 “the Association or its designated agent shall, not  
9 later than July 1, 1994,”; and

10 (3) in paragraph (3), by striking all beginning  
11 with “that—” through the period at the end of sub-  
12 paragraph (B) and inserting “that the conditions  
13 that caused the implementation of this subsection  
14 have ceased to exist.”.

15 **SEC. 12042. GUARANTY AGENCY RESERVES.**

16 Section 422 of the Act (20 U.S.C. 1072) is amended  
17 by adding at the end the following new subsection:

18 “(g) PRESERVATION OF GUARANTY AGENCY RE-  
19 SERVES.—

20 “(1) AUTHORITY TO RECOVER FUNDS.—Not-  
21 withstanding any other provision of law, the reserve  
22 funds of the guaranty agencies, and any assets pur-  
23 chased with such reserve funds, regardless of who  
24 holds or controls the reserves or assets, shall be con-  
25 sidered to be the property of the United States to

1 be used in the operation of the program authorized  
2 by this part or the program authorized by part D of  
3 this title. However, the Secretary may not require  
4 the return of all reserve funds of a guaranty agency  
5 to the Secretary unless the Secretary determines  
6 that such return is in the best interest of the oper-  
7 ation of the program authorized by this part or the  
8 program authorized by part D of this title, or to en-  
9 sure the proper maintenance of such agency's funds  
10 or assets or the orderly termination of the guaranty  
11 agency's operations and the liquidation of its assets.  
12 The reserves shall be maintained by each guaranty  
13 agency to pay program expenses and contingent li-  
14 abilities, as authorized by the Secretary, except that  
15 the Secretary may—

16 “(A) direct a guaranty agency to return to  
17 the Secretary a portion of its reserve fund  
18 which the Secretary determines is unnecessary  
19 to pay the program expenses and contingent li-  
20 abilities of the guaranty agency;

21 “(B) direct the guaranty agency to require  
22 the return, to the guaranty agency or to the  
23 Secretary, of any reserve funds or assets held  
24 by, or under the control of, any other entity,  
25 which the Secretary determines are necessary to

1 pay the program expenses and contingent liabil-  
2 ities of the guaranty agency, or which are re-  
3 quired for the orderly termination of the guar-  
4 anty agency's operations and the liquidation of  
5 its assets; and

6 "(C) direct a guaranty agency, or such  
7 agency's officers or directors, to cease any ac-  
8 tivities involving expenditure, use or transfer of  
9 the guaranty agency's reserve funds or assets  
10 which the Secretary determines is a  
11 misapplication, misuse, or improper expenditure  
12 of such funds or assets.

13 "(2) TERMINATION PROVISIONS IN CON-  
14 TRACTS.—(A) To ensure that the funds and assets  
15 of the guaranty agency are preserved, any contract  
16 with respect to the administration of a guaranty  
17 agency's reserve funds, or the administration of any  
18 assets purchased or acquired with the reserve funds  
19 of the guaranty agency, that is entered into or ex-  
20 tended by the guaranty agency, or any other party  
21 on behalf of or with the concurrence of the guaranty  
22 agency, after the date of enactment of this sub-  
23 section shall provide that the contract is terminable  
24 by the Secretary upon 30 days notice to the con-  
25 tracting parties if the Secretary determines that

1 such contract includes an impermissible transfer of  
2 the reserve funds or assets, or is otherwise inconsis-  
3 tent with the terms or purposes of this section.

4 “(B) The Secretary may direct a guaranty  
5 agency to suspend or cease activities under any con-  
6 tract entered into by or on behalf of such agency  
7 after January 1, 1993, if the Secretary determines  
8 that the misuse or improper expenditure of such  
9 guaranty agency’s funds or assets or such contract  
10 provides unnecessary or improper benefits to such  
11 agency’s officers or directors.

12 “(3) PENALTIES.—Violation of any direction is-  
13 sued by the Secretary under this subsection may be  
14 subject to the penalties described in section 490 of  
15 this Act.”.

16 **SEC. 12043. TERMS OF LOANS.**

17 (a) AMENDMENT.—Section 428 of the Act (20 U.S.C.  
18 1078) is amended—

19 (1) in subsection (b)(1)(D), by striking “be  
20 subject to” through the semicolon and inserting “be  
21 subject to income contingent repayment in accord-  
22 ance with subsection (m);”; and

23 (2) in subsection (m)—

24 (A) by amending paragraph (1) to read as  
25 follows:

1           “(1) AUTHORITY OF SECRETARY TO RE-  
2           QUIRE.—The Secretary may require any borrower  
3           who has defaulted on a loan made under this part  
4           that is assigned to the Secretary under subsection  
5           (c)(8) to repay that loan under an income contingent  
6           repayment plan, the terms and conditions of which  
7           shall be established by the Secretary and the same  
8           as, or similar to, an income contingent repayment  
9           plan established for purposes of part D of this  
10          title.”; and

11                       (B) by striking paragraphs (2), (3), and  
12                       (4) and inserting the following new paragraph:

13           “(2) LOANS FOR WHICH INCOME CONTINGENT  
14           REPAYMENT MAY BE REQUIRED.—A loan made  
15           under this part may be required to be repaid under  
16           this subsection if the note or other evidence of the  
17           loan has been assigned to the Secretary pursuant to  
18           subsection (c)(8).”.

19           (b) EFFECTIVE DATE.—The amendments made by  
20           this section shall be effective for loans made in accordance  
21           with section 428 for periods of instruction beginning on  
22           or after July 1, 1993, or made on or after July 1, 1993,  
23           in the case of loans made in accordance with section 428B  
24           or 428C of the Act.

1 **SEC. 12044. ASSIGNMENT OF LOANS.**

2 Section 428(c)(8) of the Act (20 U.S.C. 1078(c)(8))  
3 is amended—

4 (1) in the first sentence, by inserting the sub-  
5 paragraph designation “(A)” before “If the”;

6 (2) by striking the second and third sentences;  
7 and

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

10 “(B) An orderly transition from the Fed-  
11 eral Family Education Loan Program under  
12 this part to the Federal Direct Student Loan  
13 Program under part D of this title shall be  
14 deemed to be in the Federal fiscal interest, and  
15 a guaranty agency shall promptly assign loans  
16 to the Secretary under this paragraph upon the  
17 Secretary’s request.”.

18 **SEC. 12045. TERMINATION OF GUARANTY AGENCY AGREE-**  
19 **MENTS; ASSUMPTION OF GUARANTY AGENCY**  
20 **FUNCTIONS BY THE SECRETARY.**

21 Section 428(c)(9) of the Act (as redesignated by sec-  
22 tion 12027(b)(2)) (20 U.S.C. 1078(c)(10)) is amended—

23 (1) in subparagraph (C), by inserting “, as ap-  
24 propriate,” after “the Secretary shall require”;

25 (2) in subparagraph (D)—

1 (A) by inserting the clause designation  
2 “(i)” before “Each”;

3 (B) by striking “Each” and inserting “If  
4 the Secretary is not seeking to terminate the  
5 guaranty agency’s agreement under subpara-  
6 graph (E), or assuming the guaranty agency’s  
7 functions under subparagraph (F), a”;

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

10 “(ii) If the Secretary is seeking to ter-  
11 minate the guaranty agency’s agreement  
12 under subparagraph (E), or assuming the  
13 guaranty agency’s functions under sub-  
14 subparagraph (F), a management plan de-  
15 scribed in subparagraph (C) shall include  
16 the means by which the Secretary and the  
17 guaranty agency shall work together to en-  
18 sure the orderly termination of the oper-  
19 ations, and liquidation of the assets, of the  
20 guaranty agency.”;

21 (3) in subparagraph (E)—

22 (A) in clause (ii), by striking “or” after  
23 the semicolon;

24 (B) in clause (iii), by striking the period  
25 and inserting a semicolon; and

1 (C) by adding at the end the following new  
2 clauses:

3 “(iv) the Secretary determines that  
4 such action is necessary to protect the  
5 Federal fiscal interest;

6 “(v) the Secretary determines that  
7 such action is necessary to ensure the con-  
8 tinued availability of loans to student or  
9 parent borrowers; or

10 “(vi) the Secretary determines that  
11 such action is necessary to ensure an or-  
12 derly transition from the loan programs  
13 under this part to the direct student loan  
14 programs under part D of this title.”;

15 (4) in subparagraph (F)—

16 (A) in the matter preceding clause (i), by  
17 striking “Except as provided in subparagraph  
18 (G), if” and inserting “If”;

19 (B) by amending clause (v) to read as fol-  
20 lows:

21 “(v) provide the guaranty agency with  
22 additional advance funds in accordance  
23 with section 422(c)(7), with such restric-  
24 tions on the use of such funds as is deter-

1           mined appropriate by the Secretary, in  
2           order to—

3                   “(I) meet the immediate cash  
4                   needs of the guaranty agency;

5                   “(II) ensure the uninterrupted  
6                   payment of claims; or

7                   “(III) ensure that the guaranty  
8                   agency will make loans as the lender-  
9                   of-last-resort, in accordance with sub-  
10                  section (j)(4);”;

11          (C) in clause (vi)—

12                  (i) by striking “and to avoid” and in-  
13                  serting “, to avoid”;

14                  (ii) by striking the period and insert-  
15                  ing a comma and “and to ensure an or-  
16                  derly transition from the loan programs  
17                  under this part to the direct student loan  
18                  programs under part D of this title.”; and

19                  (iii) by redesignating such clause as  
20                  clause (vii); and

21          (D) by inserting after clause (v) the follow-  
22          ing new clause:

23                  “(vi) use all funds and assets of the  
24                  guaranty agency to assist in the activities  
25                  undertaken in accordance with this sub-

1 paragraph and take appropriate action to  
2 require the return, to the guaranty agency  
3 or the Secretary, of any funds or assets  
4 provided by the guaranty agency, under  
5 contract or otherwise, to any person or or-  
6 ganization; or”;

7 (5) by striking subparagraph (G);

8 (6) by redesignating subparagraphs (H), (I),  
9 and (J) as subparagraphs (I), (J), and (K), respec-  
10 tively;

11 (7) by inserting after subparagraph (F) the fol-  
12 lowing new subparagraphs:

13 “(G) Notwithstanding any other provision  
14 of law, if the Secretary has terminated or is  
15 seeking to terminate a guaranty agency’s agree-  
16 ment under subparagraph (E), or has assumed  
17 a guaranty agency’s functions under subpara-  
18 graph (F)—

19 “(i) such guaranty agency may not  
20 file for bankruptcy;

21 “(ii) no State court may issue any  
22 order affecting the Secretary’s actions with  
23 respect to such guaranty agency;

24 “(iii) any contract with respect to the  
25 administration of a guaranty agency’s re-

1           serve funds, or the administration of any  
2           assets purchased or acquired with the re-  
3           serve funds of the guaranty agency, that is  
4           entered into or extended by the guaranty  
5           agency, or any other party on behalf of or  
6           with the concurrence of the guaranty agen-  
7           cy, after the date of enactment of this sub-  
8           paragraph shall provide that the contract  
9           is terminable by the Secretary upon 30  
10          days notice to the contracting parties if the  
11          Secretary determines that such contract in-  
12          cludes an impermissible transfer of the re-  
13          serve funds or assets, or is otherwise in-  
14          consistent with the terms or purposes of  
15          this section; and

16                 “(iv) no provision of State law shall  
17                 apply to the actions of the Secretary in  
18                 terminating the operations of a guaranty  
19                 agency;

20                 “(H) Notwithstanding any other provision  
21                 of law, the Secretary’s liability for any out-  
22                 standing liabilities of a guaranty agency (other  
23                 than outstanding student loan guarantees under  
24                 this part), the functions of which the Secretary  
25                 has assumed, shall not exceed the fair market

1 value of the reserves of the guaranty agency,  
2 minus any necessary liquidation or other ad-  
3 ministrative costs.”; and

4 (8) in subparagraph (K) (as redesignated by  
5 paragraph (5)), by striking all beginning with “sys-  
6 tem, together” through the period and inserting  
7 “system and the progress of the transition from the  
8 loan programs under this part to the direct student  
9 loan programs under part D of this title.”.

10 **SEC. 12046. CONSOLIDATION LOANS.**

11 (a) AMENDMENT.—Section 428C of the Act (20  
12 U.S.C. 1078–3) is amended—

13 (1) in subsection (a)(3)(A), by striking all be-  
14 ginning with “(A)” through the period at the end of  
15 clause (ii) and inserting “(A) For the purpose of  
16 this section, the term ‘eligible borrower’ means a  
17 borrower who, at the time of application for a con-  
18 solidation loan is in repayment status, or in a grace  
19 period preceding repayment, or is a delinquent or  
20 defaulted borrower who will reenter repayment  
21 through loan consolidation.”;

22 (2) in subsection (b)—

23 (A) in paragraph (1)—

1 (i) in subparagraph (A)(ii), by insert-  
2 ing “with income-sensitive repayment  
3 terms” after “obtain a consolidation loan”;

4 (ii) by redesignating subparagraph  
5 (E) as subparagraph (F); and

6 (iii) by inserting after subparagraph  
7 (D) the following new subparagraph:

8 “(E) that the lender shall offer an income-  
9 sensitive repayment schedule, established by the  
10 lender in accordance with the regulations pro-  
11 mulgated by the Secretary, to the borrower of  
12 any consolidation loan made by the lender on or  
13 after July 1, 1994; and”;

14 (B) in paragraph (4), by amending sub-  
15 paragraph (C) to read as follows:

16 “(C)(i) provides that periodic installments  
17 of principal need not be paid, but interest shall  
18 accrue and be paid in accordance with clause  
19 (ii), during any period for which the borrower  
20 would be eligible for a deferral under section  
21 428(b)(1)(M), and that any such period shall  
22 not be included in determining the repayment  
23 schedule pursuant to subsection (c)(2) of this  
24 section; and

1           “(ii) provides that interest shall accrue and  
2           be paid—

3                   “(I) by the Secretary, in the case of  
4                   a consolidation loan that consolidated only  
5                   Federal Stafford Loans for which the stu-  
6                   dent borrower received an interest subsidy  
7                   under section 428: or

8                   “(II) by the borrower, or capitalized,  
9                   in the case of a consolidation loan other  
10                  than a loan described in subclause (I);”;  
11                  and

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

14                  “(5) DIRECT LOANS.—In the event that a bor-  
15                  rower is unable to obtain a consolidation loan from  
16                  a lender with an agreement under subsection (a)(1),  
17                  the Secretary shall offer any such borrower who ap-  
18                  plies for it, a direct consolidation loan to be repaid  
19                  pursuant to income contingent repayment under  
20                  part D of this title or pursuant to any other repay-  
21                  ment provision under this section, except that the  
22                  Secretary shall not offer such loans if, in the Sec-  
23                  retary’s judgment, the Department of Education  
24                  does not have the necessary origination and servicing  
25                  arrangements in place for such loans.”; and

1 (3) in subsection (c)—

2 (A) in paragraph (2)—

3 (i) in subparagraph (A)—

4 (I) in the matter preceding clause

5 (i), by striking “income sensitive re-

6 payment schedules. Such repayment

7 terms” and inserting “income sen-

8 sitive repayment schedules, estab-

9 lished by the lender in accordance

10 with the regulations of the Secretary.

11 Except as required by such income

12 sensitive repayment schedules, or by

13 the terms of repayment pursuant to

14 income contingent repayment offered

15 by the Secretary under subsection

16 (b)(5), such repayment terms”;

17 (II) by redesignating clauses (i),

18 (ii), (iii), (iv), and (v) as clauses (ii),

19 (iii), (iv), (v), and (vi), respectively;

20 and

21 (III) by inserting before clause

22 (ii) (as redesignated by subclause (II))

23 the following new clause:



1           “(1) PURPOSE.—It is the purpose of this sub-  
2 section to—

3           “(A) allow the Secretary to use optical im-  
4 aging technology to store and retrieve docu-  
5 ments and records, including promissory notes  
6 and repayment agreements, required for the ad-  
7 ministration of the programs authorized under  
8 part D of this title, or for the administration of  
9 loans made under part B of this title that have  
10 been assigned to the Secretary;

11           “(B) permit the Secretary to destroy origi-  
12 nals of such documents and records, including  
13 promissory notes and repayment agreements,  
14 after such documents and records have been op-  
15 tically imaged, thereby achieving significant  
16 savings in storage and retrieval costs; and

17           “(C) ensure that the Secretary may intro-  
18 duce as evidence in any proceeding with respect  
19 to the programs or loans described in subpara-  
20 graph (A) optically imaged documents and  
21 records, including promissory notes and repay-  
22 ment agreements.

23           “(2) EVIDENCE.—Notwithstanding any other  
24 provision of law, an optically imaged copy of any  
25 document or record, including a promissory note or

1        repayment agreement, may be introduced as evi-  
2        dence in any proceeding with respect to the pro-  
3        grams or loans described in paragraph (1)(A) in any  
4        Federal or State court, or other tribunal, and such  
5        optically imaged copy shall be admissible in any  
6        court or tribunal of the United States or any State  
7        as if such copy were the original document or record  
8        and have the same force and effect as the original.

9            “(3) CONSTRUCTION.—(A) Nothing in this sub-  
10        section shall be interpreted to preclude the admissi-  
11        bility of a duplicate of a document or record re-  
12        quired for the administration of the programs or  
13        loans described in paragraph (1)(A) made by a tech-  
14        nology other than optical imaging consistent with  
15        the Federal Rules of Evidence and section 1732 of  
16        title 28, United States Code, or applicable State law.

17            “(B) Nothing in this subsection shall be inter-  
18        preted to preclude the admissibility of an optically  
19        imaged copy of any document or record in a pro-  
20        ceeding outside the scope of this subsection consist-  
21        ent with the Federal Rules of Evidence and section  
22        1732 of title 28 of the United States Code, or appli-  
23        cable State law.”.

1 (b) OPTICALLY IMAGED DOCUMENTS.—Section 432  
2 of the Act (20 U.S.C. 1082) is amended by adding at the  
3 end the following new subsection:

4 “(q) OPTICALLY IMAGED DOCUMENTS.—Records  
5 maintained in accordance with section 484A(c) may be  
6 used in any proceeding, as permitted by section 484A(c),  
7 with respect to a loan that was made under this part and  
8 has been assigned to the Secretary.”.

9 (c) CONFORMING AMENDMENT.—Section 487 of the  
10 Act (20 U.S.C. 1094) is amended by adding at the end  
11 the following new subsection:

12 “(f) USE OF OPTICALLY IMAGED DOCUMENTS.—In  
13 any proceeding with respect to a program or activity under  
14 part D of this title, or with respect to a loan made under  
15 part B of this title that has been assigned to the Sec-  
16 retary, records maintained in accordance with section  
17 484A may be used as provided in that section.”.

18 **SEC. 12048. CONSOLIDATION OF PROGRAMS.**

19 (a) IN GENERAL.—Section 428H of the Act (20  
20 U.S.C. 1078–9) is amended—

21 (1) in the matter preceding paragraph (1) of  
22 subsection (b), by inserting “(including graduate  
23 and professional students as defined in regulations  
24 promulgated by the Secretary)” after “484”;

1           (2) in subsection (d), by inserting “, except  
2 that—

3           “(1) the maximum annual amount of loans  
4 under this section an independent student (or a stu-  
5 dent whose parents are unable to borrow under the  
6 Federal Direct PLUS Loan Program) may borrow  
7 in any academic year or its equivalent or in any pe-  
8 riod of 7 consecutive months, whichever is longer,  
9 shall be as follows:

10           “(A) In the case of such a student attend-  
11 ing an eligible institution who has not com-  
12 pleted such student’s first 2 years of under-  
13 graduate study, the amount determined in ac-  
14 cordance with section 428(b)(1), plus—

15           “(i) \$4,000, if such student is enrolled  
16 in a program whose length is at least one  
17 academic year in length (as determined  
18 under section 481);

19           “(ii) \$2,500, if such student is en-  
20 rolled in a program whose length is less  
21 than one academic year, but at least  $\frac{2}{3}$  of  
22 such an academic year; and

23           “(iii) \$1,500, if such student is en-  
24 rolled in a program whose length is less

1           than  $\frac{2}{3}$ , but at least  $\frac{1}{3}$ , of such an aca-  
2           demic year.

3           “(B) In the case of such a student attend-  
4           ing an eligible institution who has completed  
5           the first 2 years of undergraduate study but  
6           who has not completed the remainder of a pro-  
7           gram of undergraduate study, the amount de-  
8           termined in accordance with section 428(b)(1),  
9           plus—

10                   “(i) \$5,000, if such student is enrolled  
11                   in a program whose length is at least one  
12                   academic year in length (as determined  
13                   under section 481);

14                   “(ii) \$3,325, if such student is en-  
15                   rolled in a program whose length is less  
16                   than one academic year, but at least  $\frac{2}{3}$  of  
17                   such an academic year; and

18                   “(iii) \$1,675, if such student is en-  
19                   rolled in a program whose length is less  
20                   than  $\frac{2}{3}$ , but at least  $\frac{1}{3}$ , of such an aca-  
21                   demic year.

22           “(C) In the case of such a student who is  
23           a graduate or professional student attending an  
24           eligible institution, the amount determined in

1           accordance with section 428(b)(1), plus  
2           \$10,000; and

3           “(2) the maximum aggregate amount of such  
4           loans such student may borrow shall be adjusted to  
5           reflect the increased annual limits described in para-  
6           graph (1)” before the period;

7           (3) in subsection (e), by adding at the end the  
8           following new paragraphs:

9           “(5) AMORTIZATION.—The amount of the peri-  
10          odic payment and the repayment schedule for any  
11          loan made pursuant to this section shall be estab-  
12          lished by assuming an interest rate equal to the ap-  
13          plicable rate of interest at the time the repayment  
14          of the principal amount of the loan commences. At  
15          the option of the lender, the note or other written  
16          evidence of the loan may require that—

17                 “(A) the amount of the periodic payment  
18                 will be adjusted annually; or

19                 “(B) the period of repayment of principal  
20                 will be lengthened or shortened,

21                 in order to reflect adjustments in interest rates oc-  
22                 curring as a consequence of section 427A(c)(4).

23           “(6) REPAYMENT PERIOD.—For purposes of  
24           calculating the 10-year repayment period under sec-  
25           tion 428(b)(1)(D), such period shall commence at

1 the time the first payment of principal is due from  
2 the borrower.”; and

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

5 “(h) REFINANCING.—

6 “(1) REFINANCING TO SECURE COMBINED PAY-  
7 MENT.—An eligible lender may at any time consoli-  
8 date loans held by such lender which are made  
9 under this section to a borrower, including loans  
10 which were made under sections 428A and 428B as  
11 such sections were in effect prior to the date of en-  
12 actment of the Higher Education Amendments of  
13 1986, under a single repayment schedule which pro-  
14 vides for a single principal payment and a single  
15 payment of interest, and shall calculate the repay-  
16 ment period for each included loan from the date of  
17 the commencement of repayment of the most recent  
18 included loan. Unless the consolidated loan is ob-  
19 tained by a borrower who is electing to obtain vari-  
20 able interest under paragraph (2) or (3), such con-  
21 solidated loan shall bear interest at the weighted av-  
22 erage of the rates of all included loans rounded to  
23 the nearest whole percent. The extension of any re-  
24 payment period of an included loan pursuant to this  
25 paragraph shall be reported (if required by such

1 loan) to the Secretary or guaranty agency insuring  
2 the loan, as the case may be, but no additional in-  
3 surance premiums shall be payable with respect to  
4 any such extension. The extension of the repayment  
5 period of any included loan shall not require the for-  
6 mal extension of the promissory note evidencing the  
7 included loan or the execution of a new promissory  
8 note, but shall be treated as an administrative for-  
9 bearance of the repayment terms of the included  
10 loan.

11 “(2) REFINANCING TO SECURE VARIABLE IN-  
12 TEREST RATE.—An eligible lender may reissue a  
13 loan which was made under this section before July  
14 1, 1987, or under sections 428A and 428B as such  
15 sections were in effect prior to the date of enactment  
16 of the Higher Education Amendments of 1986 in  
17 order to permit the borrower to obtain the interest  
18 rate provided under section 427A(c)(4). A lender of-  
19 fering to reissue a loan or loans for such purpose  
20 may charge a borrower an amount not to exceed  
21 \$100 to cover the administrative costs of reissuing  
22 such loan or loans, not more than one-half of which  
23 shall be paid to the guarantor of the loan being re-  
24 issued to recover costs of reissuance. Reissuance of  
25 a loan under this paragraph shall not affect any in-

1       surance applicable with respect to the loan, and no  
2       additional insurance fee may be charged to the bor-  
3       rower with respect to the loan.

4           “(3) REFINANCING BY DISCHARGE OF PRE-  
5       VIOUS LOAN.—A borrower who has applied to an  
6       original lender for reissuance of a loan under para-  
7       graph (2) and who is denied such reissuance may  
8       obtain a loan from another lender for the purpose of  
9       discharging the loan from such original lender. A  
10      loan made for such purpose—

11           “(A) shall bear interest at the applicable  
12      rate of interest provided under section  
13      427A(c)(4);

14           “(B) shall not result in the extension of  
15      the duration of the note (other than as per-  
16      mitted under subsection (e)(5)(B));

17           “(C) may be subject to an additional insur-  
18      ance fee but shall not be subject to the adminis-  
19      trative cost charge permitted by paragraph (2)  
20      of this subsection; and

21           “(D) shall be applied to discharge the bor-  
22      rower from any remaining obligation to the  
23      original lender with respect to the original loan.

24           “(4) CERTIFICATION IN LIEU OF PROMISSORY  
25      NOTE PRESENTATION.—Each new lender may accept

1 certification from the original lender of the borrow-  
2 er's original loan in lieu of presentation of the origi-  
3 nal promissory note.

4 “(5) NOTIFICATION TO BORROWERS OF AVAIL-  
5 ABILITY OF REFINANCING OPTIONS.—Each holder of  
6 a loan made under this section or under section  
7 428B as in effect prior to the date of enactment of  
8 this Act shall, not later than October 1, 1993, in the  
9 case of loans made before the date of enactment of  
10 this paragraph, notify the borrower of such loan—

11 “(A) of the refinancing options for which  
12 the borrower is eligible under this subsection;

13 “(B) of those options which will be made  
14 available by the holder and of the practical con-  
15 sequences of such options in terms of interest  
16 rates and monthly and total payments for a set  
17 of loan examples; and

18 “(C) that, with respect to any option that  
19 the holder will not make available, the holder  
20 will, to the extent practicable, refer the bor-  
21 rower to an eligible lender offering such op-  
22 tion.”.

23 (b) REPEAL.—

24 (1) REPEALER.—Section 428A of the Act is re-  
25 pealed.

1           (2) EFFECTIVE DATE.—The amendment made  
2           by paragraph (1) shall be effective on July 1, 1994.

3           (c) TERMS, CONDITIONS AND BENEFITS.—Notwith-  
4           standing the amendments made by this section, with re-  
5           spect to loans provided under sections 428A and 428H  
6           of the Higher Education Act of 1965 (as such sections  
7           existed on the date preceding the date of enactment of  
8           this Act) the terms, conditions and benefits applicable to  
9           such loans under such sections shall continue to apply to  
10          such loans after the date of enactment of this Act.

11       **SEC. 12049. ORIGINATION FEE; INSURANCE PREMIUM.**

12          Section 428H of the Act (20 U.S.C. 1078–8) is  
13       amended—

14               (1) in subsection (f)—

15                       (A) in the subsection heading, by striking  
16                       “INSURANCE PREMIUM” and inserting “ORIGI-  
17                       NATION FEE”;

18                       (B) in the heading of paragraph (1), by  
19                       striking “/INSURANCE PREMIUM”;

20                       (C) in paragraph (1)—

21                               (i) by striking “a combined origina-  
22                               tion fee and insurance premium in the  
23                               amount of 6.5 percent” and inserting “an  
24                               origination fee in the amount of 3.0 per-  
25                               cent”; and

1 (ii) by striking the second sentence;

2 (D) in paragraph (2), by striking “com-  
3 bined fee and premium” and inserting “origina-  
4 tion fee”;

5 (E) in paragraph (3), by striking “com-  
6 bined origination fee and insurance premium”  
7 and inserting “origination fee”;

8 (F) in paragraph (4)—

9 (i) in the heading, by striking “INSUR-  
10 ANCE PREMIUM” and inserting “ORIGINA-  
11 TION FEE”;

12 (ii) by striking “combined origination  
13 fee and insurance premiums” and inserting  
14 “origination fees”; and

15 (iii) by striking “and premiums to  
16 pay” and inserting “to pay”; and

17 (G) in paragraph (5)—

18 (i) in the heading, by inserting  
19 “ORIGINATION FEE AND” before “INSUR-  
20 ANCE”; and

21 (ii) in the second sentence—

22 (I) by striking “6.5 percent in-  
23 surance premium” and inserting  
24 “combined origination fee under this

1 subsection and the insurance premium  
2 under subsection (h)”; and

3 (II) by inserting “origination fee  
4 and” before “insurance”; and

5 (2) by adding at the end the following new sub-  
6 section:

7 “(h) INSURANCE PREMIUM.—Each State or non-  
8 profit private institution or organization having an agree-  
9 ment with the Secretary under section 428(b)(1) may  
10 charge a borrower under this section an insurance pre-  
11 mium equal to not more than 1 percent of the principal  
12 amount of the loan, if such premium will not be used for  
13 incentive payments to lenders.”

14 **SEC. 12050. DISBURSEMENTS FOR FIRST YEAR STUDENTS.**

15 Section 428(G) of the Act (20 U.S.C. 1078–7) is  
16 amended—

17 (1) in the heading for subsection (b), by strik-  
18 ing “AND ENDORSEMENT”; and

19 (2) in subsection (b)—

20 (A) by striking paragraph (1);

21 (B) in paragraph (2)—

22 (i) by striking “other than a student  
23 described in paragraph (1)”; and

24 (ii) by striking “(2) OTHER STU-  
25 DENTS.—”.

1     **Subchapter B—Amendments to Other Laws**

2     **SEC. 12055. DISCLOSURE OF TAX RETURN INFORMATION.**

3         (a) RETURNS AND RETURN INFORMATION.—Section  
4 6103(a)(3) of the Internal Revenue Code of 1986 (here-  
5 after referred to in this part as “the Code”) is amended  
6 by striking “(l)(12)” and inserting “(l)(10), (12), or  
7 (13)”.

8         (b) INCOME CONTINGENT REPAYMENT OF STUDENT  
9 LOANS.—Section 6103(l) of the Code is amended—

10             (1) in paragraph (10)(B), by striking “officers  
11 and employees of an agency receiving return infor-  
12 mation under subparagraph (A) shall use such infor-  
13 mation” and inserting “return information disclosed  
14 under subparagraph (A) may be used by officers and  
15 employees of an agency, and by officers, employees,  
16 and agents of the Department of Education,”; and

17             (2) at the end, by adding a new paragraph to  
18 read as follows:

19             “(13) DISCLOSURE OF RETURN INFORMATION  
20 TO CARRY OUT INCOME CONTINGENT REPAYMENT  
21 OF STUDENT LOANS.—

22             “(A) IN GENERAL.—The Secretary may,  
23 upon written request from the Secretary of  
24 Education, disclose to officers and employees of  
25 the Department of Education return informa-

1           tion with respect to a taxpayer who has received  
2           a Federal loan under a student loan program  
3           and whose loan repayment amounts are based  
4           in whole or in part on the taxpayer's income.  
5           Such return information shall be limited to—

6                   “(i) taxpayer identity information  
7                   with respect to such taxpayer;

8                   “(ii) the filing status of such tax-  
9                   payer; and

10                   “(iii) the adjusted gross income of  
11                   such taxpayer (as defined in section 62).

12                   “(B) RESTRICTION ON USE OF DISCLOSED  
13                   INFORMATION.—Return information disclosed  
14                   under subparagraph (A) may be used by offi-  
15                   cers, employees, and agents of the Department  
16                   of Education only for the purposes of, and to  
17                   the extent necessary in, establishing an appro-  
18                   priate income contingent repayment level under  
19                   a student loan program.

20                   “(C) DEFINITIONS.—For purposes of this  
21                   paragraph, the term ‘student loan program’  
22                   means the program authorized under part D of  
23                   title IV of the Higher Education Act of 1965  
24                   and includes loans under parts B and E of title  
25                   IV the Higher Education Act of 1965 that are

1 in default and have been assigned to the De-  
2 partment of Education.”.

3 (c) DISCLOSURE OF TAXPAYER IDENTITY INFORMA-  
4 TION.—Section 6103(m)(4) of the Code is amended—

5 (1) in the heading, by inserting “**OWE AN**  
6 **OVERPAYMENT ON FEDERAL PELL GRANTS**  
7 **OR**” immediately after “**INDIVIDUALS WHO**”;

8 (2) in subparagraph (A)—

9 (A) by redesignating clauses (i) and (ii) as  
10 subclauses (I) and (II); and

11 (B) by striking “of any taxpayer who has  
12 defaulted on a loan—” and inserting “of any  
13 taxpayer—

14 “(i) who owes an overpayment of a  
15 grant awarded to that taxpayer under sub-  
16 part 1 of part A of title IV of the Higher  
17 Education Act of 1965, or

18 “(ii) who has defaulted on a loan—”;

19 (3) in subparagraph (B)—

20 (A) in clause (i), by striking “under part  
21 B” and inserting “under part B or D”; and

22 (B) in clause (ii), by striking “under part  
23 E” and inserting “under subpart 1 of part A,  
24 part D, or part E”;

1 (d) PROCEDURE AND RECORDKEEPING.—Section  
2 6103(p) of the Code is amended—

3 (1) in paragraph (3)(A), by striking “(11), or  
4 (12), (m)” and inserting “(11), (12), or (13), (m)”;

5 (2) in paragraph (4)—

6 (A) in the matter preceding subparagraph  
7 (A), by striking “(10), or (11),” and inserting  
8 “(10), (11), or (13),”;

9 (B) in subparagraph (F)(ii), by striking  
10 “(11), or (12),” and inserting “(11), (12), or  
11 (13),”; and

12 (C) in the flush left material after sub-  
13 paragraph (F), by striking “under subsection  
14 (l)(12)(B)” and inserting “under paragraph  
15 (10), (12)(B), or (13) of subsection (l)”.

16 (e) COLLECTION OF PAYMENTS.—(1) Subchapter A  
17 of chapter 64 of the Code is amended by adding at the  
18 end the following new section:

19 **“SEC. 6306. COLLECTION OF PAYMENTS ON FEDERAL DI-**  
20 **RECT STUDENT LOANS.**

21 “Upon a determination by the President under sec-  
22 tion 457(b) of the Higher Education Act of 1965 concern-  
23 ing the implementation of a plan for the repayment of  
24 Federal Direct Stafford Loans through wage withholding  
25 or other means by the Internal Revenue Service, the Sec-

1   retary of the Treasury may enter into an agreement with  
2   the Secretary of Education to provide for the collection  
3   of payments on loans made pursuant to part D of title  
4   IV of such Act. The Secretary of the Treasury may assess  
5   and collect such payments as though they were additional  
6   income taxes due, and shall establish such procedures and  
7   conventions as are necessary under such agreement, in-  
8   cluding—

9           “(1) procedures for the resolution of disputes  
10       through the Secretary of Education;

11          “(2) an alternate system of fees and penalties,  
12       which system shall not include the seizure of real  
13       property by the Internal Revenue Service, for the  
14       nonpayment of amounts due; and

15          “(3) provisions related to withholding, payment  
16       of estimated tax and allocation of payments.”.

17       (2) The table of sections for subchapter A of chapter  
18   64 of the Code is amended by adding at the end the follow-  
19   ing new item:

      “Sec. 6306. Collection of payments on Federal direct Stafford loans.”.

20       (f)       UNAUTHORIZED       DISCLOSURE.—Section  
21   7213(a)(2) of the Code is amended by striking “(10) or  
22   (12)” and inserting “(10), (12), or (13),”.

23       (g)       EFFECTIVE DATE.—The amendments made by  
24   this section shall be effective during the period beginning

1 on the date of enactment of this Act and ending on De-  
2 cember 30, 1998.

3 **CHAPTER 4—COST SHARING BY STATES**

4 **SEC. 12061. COST SHARING BY STATES.**

5 (a) AMENDMENT.—Section 428 of the Higher Edu-  
6 cation Act of 1965 (20 U.S.C. 1078) is amended by add-  
7 ing at the end the following new subsection:

8 “(n) STATE SHARE OF DEFAULT COSTS.—

9 “(1) IN GENERAL.—In the case of any State in  
10 which there are located any institutions of higher  
11 education with cohort default rates that exceed 20  
12 percent, such State shall pay to the Secretary an  
13 amount equal to—

14 “(A) the new loan volume attributable to  
15 all institutions in the State for the current fis-  
16 cal year; multiplied by

17 “(B) the percentage specified in paragraph  
18 (2); multiplied by

19 “(C) the quotient of—

20 “(i) the sum of the amounts cal-  
21 culated under paragraph (3) for each such  
22 institution in the State; divided by

23 “(ii) the total amount of loan volume  
24 attributable to current and former stu-  
25 dents of institutions located in that State

1 entering repayment in the period used to  
2 calculate the cohort default rate.

3 “(2) PERCENTAGE.—For purposes of para-  
4 graph (1)(B), the percentage used shall be—

5 “(A) 12.5 percent for fiscal year 1995;

6 “(B) 20 percent for fiscal year 1996; and

7 “(C) 50 percent for fiscal year 1997 and  
8 succeeding fiscal years.

9 “(3) CALCULATION.—For purposes of para-  
10 graph (1)(C)(i), the amount shall be determined by  
11 calculating for each institution the amount by  
12 which—

13 “(A) the amount of the loans received for  
14 attendance by such institution’s current and  
15 former students who (i) enter repayment during  
16 the fiscal year used for the calculation of the  
17 cohort default rate, and (ii) default before the  
18 end of the following fiscal year; exceeds

19 “(B) 20 percent of the loans received for  
20 attendance by all the current and former stu-  
21 dents who enter repayment during the fiscal  
22 year used for the calculation of the cohort de-  
23 fault rate.

24 “(4) FEE.—A State may charge a fee to an in-  
25 stitution of higher education that participates in the

1 program under this part and is located in that State  
 2 according to a fee structure, approved by the Sec-  
 3 retary, that is based on the institution's cohort de-  
 4 fault rate and the State's risk of loss under this sub-  
 5 section. Such fee structure shall include a process by  
 6 which an institution with a high cohort default rate  
 7 is exempt from any fees under this paragraph if  
 8 such institution demonstrates to the satisfaction of  
 9 the State that exceptional mitigating circumstances,  
 10 as determined by the State and approved by the Sec-  
 11 retary, contributed to its cohort default rate.”.

12 (b) EFFECTIVE DATE.—The amendment made by  
 13 this section shall be effective on October 1, 1994.

#### 14 **CHAPTER 5—GENERAL EFFECTIVE DATE**

##### 15 **SEC. 12071. GENERAL EFFECTIVE DATE.**

16 Except as otherwise provided in this subtitle, this  
 17 subtitle and the amendments made by this subtitle shall  
 18 be effective on October 1, 1993.

### 19 **Subtitle B—Public Health Service** 20 **Act Provisions**

#### 21 **SEC. 12101. HEALTH COVERAGE CLEARINGHOUSE.**

22 (a) IN GENERAL.—The Public Health Service Act is  
 23 amended—

24 (1) by redesignating title XXVII (42 U.S.C.  
 25 300cc et seq.) as title XXVIII; and

1           (2) by inserting after title XXVI the following  
2           new title:

3           **“TITLE XXVII—HEALTH**  
4           **COVERAGE CLEARINGHOUSE**

5           **“SEC. 2701. ESTABLISHMENT OF CLEARINGHOUSE.**

6           “(a) IN GENERAL.—The Secretary shall establish  
7           and operate a Health Coverage Clearinghouse (in this title  
8           referred to as the ‘Clearinghouse’) for the purpose of iden-  
9           tifying, for beneficiaries under a covered health program  
10          (as defined in subsection (c)), third parties (which may  
11          include a covered health program) which may be liable for  
12          payment for health care items and services furnished to  
13          such beneficiaries under such program.

14          “(b) DIRECTOR.—The Clearinghouse shall be headed  
15          by a Director (in this title referred to as the ‘Director’)  
16          appointed by the Secretary.

17          “(c) COVERED HEALTH PROGRAM DEFINED.—As  
18          used in this title, the term ‘covered health program’ means  
19          any of the following under which health care items or serv-  
20          ices are furnished to a beneficiary—

21                  “(1) a migrant health center receiving assist-  
22                  ance under section 329;

23                  “(2) a community health center receiving assist-  
24                  ance under section 330;

1           “(3) an entity receiving assistance under sec-  
2           tion 340;

3           “(4) an alcohol or drug treatment entity or  
4           mental health entity receiving assistance under title  
5           V or title XIX;

6           “(5) a family planning project described in sec-  
7           tion 1001;

8           “(6) an entity receiving assistance under title  
9           XXVI;

10          “(7) a black lung clinic authorized under this  
11          Act;

12          “(8) a clinic that treats sexually transmitted  
13          diseases and is authorized under section 318;

14          “(9) an entity receiving funds to provide pri-  
15          mary health services to residents of public housing  
16          under section 340A;

17          “(10) a non-Federal entity authorized under  
18          the Indian Self-Determination Act;

19          “(11) a tuberculosis clinic receiving assistance  
20          under section 317(j)(2) or 317(k)(2); or

21          “(12) any other Federally funded program that  
22          provides payments for medical services provided to  
23          an individual which are or may be covered under a  
24          private health insurance policy.

25          “(d) OTHER DEFINITIONS.—As used in this title:

1           “(1) ADMINISTRATOR.—The term ‘adminis-  
2           trator’ means, with respect to a covered health pro-  
3           gram described in paragraphs (1) through (12) of  
4           subsection (c), the individual responsible for the  
5           overall administration of the program under which  
6           an entity described in such paragraphs receives Fed-  
7           eral funds.

8           “(2) GROUP HEALTH PLAN.—The term ‘group  
9           health plan’ has the same meaning given the term  
10          ‘employee welfare benefit plan’ in section 3(1) of the  
11          Employee Retirement Income Security Act of 1974  
12          (29 U.S.C. 1002(1)).

13          “(3) QUALIFIED EMPLOYER.—The term ‘quali-  
14          fied employer’ has the same meaning given the term  
15          ‘employer’ in section 3(5) of the Employee Retire-  
16          ment Income Security Act of 1974 (29 U.S.C.  
17          1002(1)).

18          **“SEC. 2702. PROVISION OF INFORMATION**

19          “(a) REQUEST FOR INFORMATION.—An adminis-  
20          trator of a covered health program may request from the  
21          Director information concerning the employment and  
22          group health coverage of a program beneficiary, the bene-  
23          ficiary’s spouse, and (if the beneficiary is a dependent  
24          child) the beneficiary’s parents. The Director shall provide  
25          such information if the request—

1           “(1) is in such form and manner and at such  
2 a time as the Director may require, and

3           “(2) specifies the name and tax identification  
4 number of the beneficiary.

5           “(b) DATA MATCHING PROGRAM.—

6           “(1) REQUEST BY DIRECTOR.—The Director  
7 shall, at such intervals as the Director finds appro-  
8 priate, transmit to the Secretary of the Treasury the  
9 names and tax identification numbers of bene-  
10 ficiaries with respect to whom a request has been  
11 made pursuant to subsection (a), and request that  
12 such Secretary disclose to the Secretary of Health  
13 and Human Services the following information:

14           “(A) Whether the beneficiary is married  
15 and, if so, the name of the spouse and such  
16 spouse’s tax identification number.

17           “(B) If the beneficiary is a dependent  
18 child, the name of and tax identification num-  
19 bers of the beneficiary’s parents.

20           “(2) INFORMATION FROM SECRETARY.—The  
21 Secretary shall, upon written request from the Di-  
22 rector, disclose to the Director, the following infor-  
23 mation:

24           “(A) For each individual who is identified  
25 as having received wages (as defined in section

1 3401(a) of the Internal Revenue Code of 1986)  
2 from an employer in a previous year—

3 “(i) the name and taxpayer identifica-  
4 tion number of the individual; and

5 “(ii) the name, address, and taxpayer  
6 identification number of the employer, and  
7 whether such employer is a qualified em-  
8 ployer.

9 “(B) For each individual who is identified  
10 as married and whose spouse is identified as  
11 having received wages (as defined in section  
12 3401(a) of the Internal Revenue Code of 1986)  
13 from an employer in a previous year—

14 “(i) the name and taxpayer identifica-  
15 tion number of the individual and of the  
16 individual’s spouse; and

17 “(ii) the name, address, and taxpayer  
18 identification number of the spouse’s em-  
19 ployer, and whether such employer is a  
20 qualified employer.

21 “(C) For each individual who is identified  
22 as a dependent child and whose parent is iden-  
23 tified as having received wages (as defined in  
24 section 3401(a) of the Internal Revenue Code  
25 of 1986) from an employer in a previous year—

1           “(i) the name and taxpayer identifica-  
2           tion number of the individual and of the  
3           individual’s parent; and

4           “(ii) the name, address, and taxpayer  
5           identification number of the parent’s em-  
6           ployer, and whether such employer is a  
7           qualified employer.

8           “(3) INFORMATION FROM EMPLOYERS.—The  
9           Director shall—

10           “(A) request, from the employer of each  
11           individual (including each spouse) with respect  
12           to whom information was received from the  
13           Secretary pursuant to paragraph (2), informa-  
14           tion concerning coverage of such individual (and  
15           of the individual’s spouse and dependent chil-  
16           dren) under the employer’s group health plan,  
17           specifically the period and nature of the cov-  
18           erage, and the name, address, and identifying  
19           number of the plan, and

20           “(B) furnish the information received in  
21           response to such request with respect to an in-  
22           dividual (or such individual’s spouse or depend-  
23           ent children) to the administrator requesting  
24           such information pursuant to subsection (a).

1 Under no circumstances shall the information re-  
2 quired pertain in any way to the health status of  
3 the individual, spouse or dependent children, to the  
4 cost of such coverage, or to the beneficiary-specific  
5 limitations on such coverage.

6 **“SEC. 2703. REQUIREMENT THAT EMPLOYERS FURNISH IN-**  
7 **FORMATION.**

8 “(a) IN GENERAL.—An employer shall furnish to the  
9 Director the information requested pursuant to section  
10 2702(b)(3) within 90 days after receipt of such a request.

11 “(b) CIVIL MONEY PENALTY FOR FAILURE TO CO-  
12 OPERATE.—

13 “(1) IN GENERAL.—An employer (other than a  
14 Federal or other governmental entity) who willfully  
15 or repeatedly fails to provide timely and accurate re-  
16 sponse to a request for information pursuant to sec-  
17 tion 2702(b)(3) shall be subject, in addition to any  
18 other penalties that may be prescribed by law, to a  
19 civil money penalty of not to exceed \$500 for each  
20 individual with respect to whom such a request is  
21 made.

22 “(2) ENFORCEMENT AUTHORITY.—In cases of  
23 failure to respond to the Director in accordance with  
24 subsection (a) to inquiries relating to requests pur-  
25 suant to section 2702, the provisions of section

1 353(h)(3), regarding procedures for the imposition  
2 of civil money penalties developed by the Secretary,  
3 shall apply in the same manner as such provisions  
4 apply to penalties or proceedings under section 353.

5 **“SEC. 2704. DATA BANK.**

6 “(a) MAINTENANCE OF INFORMATION.—The Clear-  
7 inghouse shall maintain a data bank, containing informa-  
8 tion on individuals obtained pursuant to this title. Individ-  
9 ual information in the data bank shall be retained for not  
10 less than one year after the date the information was ob-  
11 tained.

12 “(b) DISCLOSURE OF INFORMATION IN DATA  
13 BANK.—

14 “(1) IN GENERAL.—The Director is authorized  
15 (subject to paragraph (2)) to disclose any informa-  
16 tion in the data bank established pursuant to sub-  
17 section (a) with respect to an individual (or an indi-  
18 vidual’s spouse or parent)—

19 “(A) to the Secretary, administrators, em-  
20 ployers, and insurers, to the extent necessary to  
21 assist such administrators;

22 “(B) to Federal and State law enforcement  
23 officials responsible for enforcement of civil or  
24 criminal laws, in connection with investigations  
25 or administrative or judicial law enforcement

1 proceedings relating to a covered health pro-  
2 gram; and

3 “(C) for research or statistical purposes.

4 “(2) RESTRICTIONS ON DISCLOSURE.—Informa-  
5 tion in the data bank may be disclosed under this  
6 subsection only for purposes of, and to the extent  
7 necessary in, determining the extent to which an in-  
8 dividual is covered under any group health plan.

9 “(c) USE OF CONTRACTORS.—The responsibilities of  
10 the Clearinghouse under this section may be carried out  
11 by contract.

12 “(d) FEES.—The Clearinghouse shall—

13 “(1) establish fees for services under this sec-  
14 tion designed to cover the full costs to the Clearing-  
15 house of providing such services, and

16 “(2) require the payment of such fees to pro-  
17 vide such services.”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Sections 2701 through 2714 of the Public  
20 Health Service Act (42 U.S.C. 300cc through  
21 300cc–15) are redesignated as sections 2801  
22 through 2814, respectively.

23 (2) Sections 465(f) and 497 of such Act (42  
24 U.S.C. 286(f) and 289(f)) are amended by striking

1 out “2701” each place that such appears and insert-  
2 ing in lieu thereof “2801”.

3 (c) ERISA AMENDMENT.—Section 101 of the Em-  
4 ployee Retirement Income Security Act of 1974 (29  
5 U.S.C. 1021) is amended by adding at the end thereof  
6 the following new subsection:

7 “(g) COMPLIANCE WITH HEALTH COVERAGE CLEAR-  
8 INGHOUSE REQUIREMENTS.—In addition to providing the  
9 information required under this section, the administrator  
10 of each employee benefit plan shall comply with the re-  
11 quirements of section 2703(a) of the Public Health Service  
12 Act. The enforcement provisions of this Act shall apply  
13 to an administrator that fails to comply with this sub-  
14 section in the same manner as such provisions otherwise  
15 apply to such administrators under this section.”.

16 (d) EFFECTIVE DATE.—The amendments made by  
17 subsections (a), (b), and (c) shall take effect on April 1,  
18 1995.

19 **SEC. 12102. PHYSICIAN OWNERSHIP STUDY.**

20 (a) STUDY.—The Secretary of Health and Human  
21 Services shall conduct a study concerning—

22 (1) the desirability of establishing a Federal  
23 prohibition on the referral of a patient by a health  
24 care provider to an entity in which the provider has

1 a financial interest or from which the provider re-  
2 ceives a financial benefit for such referral; and

3 (2) different options with respect to the scope  
4 of any prohibition recommended under paragraph  
5 (1), including options for the application of rules de-  
6 fining prohibited activities that are similar to those  
7 implemented under title XVIII of the Social Security  
8 Act, and for the methods of enforcing such a prohi-  
9 bition.

10 (b) LIMITATION.—The study conducted under sub-  
11 section (a) shall be restricted to determining the desirabil-  
12 ity of establishing a prohibition of the type described in  
13 such subsection with respect to patients for whom the  
14 health care services involved are not provided or paid for  
15 under a Federal or State program.

16 (c) REPORT.—Not later than 6 months after the date  
17 of enactment of this Act, the Secretary of Health and  
18 Human Services shall prepare and submit to the President  
19 and the appropriate committees of Congress a report con-  
20 cerning the results of the study conducted under sub-  
21 section (a).

22 **SEC. 12103. DELAY IN COST-OF-LIVING ADJUSTMENTS IN**  
23 **FEDERAL EMPLOYEE RETIREMENT BENEFITS**  
24 **DURING FISCAL YEARS 1994, 1995, AND 1996.**

25 (a) APPLICABILITY.—

1           (1) IN GENERAL.—This section shall apply with  
2           respect to any cost-of-living increase for any person  
3           described under paragraph (2) scheduled to take  
4           effect, during fiscal year 1994, 1995, or 1996, under  
5           section 8340(b) or 8462(b) of title 5, United States  
6           Code.

7           (2) ANNUITANTS.—The provisions of paragraph  
8           (1) shall apply to any annuitant who on the date  
9           preceding the date of retirement was a member of  
10          the National Health Service Corps.

11          (b) DELAY IN EFFECTIVE DATE OF ADJUST-  
12          MENTS.—A cost-of-living increase described in subsection  
13          (a) shall not take effect until the first day of the third  
14          calendar month after the date such increase would other-  
15          wise take effect.

16          (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
17          tion shall be considered to affect any determination relat-  
18          ing to eligibility for an annuity increase or the amount  
19          of the first increase in an annuity under section 8340(b)  
20          or (c) or section 8462 (b) or (c) of title 5, United States  
21          Code, or comparable provisions of law.

1 **SEC. 12104. PERMANENT ELIMINATION OF THE ALTER-**  
2 **NATIVE-FORM-OF-ANNUITY OPTION EXCEPT**  
3 **FOR INDIVIDUALS WITH A CRITICAL MEDI-**  
4 **CAL CONDITION.**

5 (a) CIVIL SERVICE RETIREMENT SYSTEM; FEDERAL  
6 EMPLOYEES' RETIREMENT SYSTEM.—A member of the  
7 National Health Service Corps who is covered under chap-  
8 ter 83 or 84 of title 5, United States Code, and has a  
9 life-threatening affliction or other critical medical condi-  
10 tion may elect annuity benefits under section 8343a or  
11 8420a of title 5, United States Code, as the case may be.

12 (b) EFFECTIVE DATE.—The amendments made by  
13 this section shall become effective on October 1, 1995, and  
14 shall apply with respect to any annuity commencing on  
15 or after that date.

16 **SEC. 12105. FEDERAL TORT CLAIMS AMENDMENTS.**

17 (a) CLARIFICATION OF COVERAGE OF OFFICERS AND  
18 EMPLOYEES OF CLINICS.—The first sentence of section  
19 224(g)(1) of the Public Health Service Act (42 U.S.C.  
20 233(g)(1)) is amended by striking “officer, employee, or  
21 contractor” and inserting the following: “officer or em-  
22 ployee of such an entity, and any contractor”.

23 (b) COVERAGE FOR SERVICES FURNISHED TO INDI-  
24 VIDUALS OTHER THAN PATIENTS OF CLINIC.—Section  
25 224(g) of such Act (42 U.S.C. 233(g)(1)), as amended  
26 by paragraph (1), is further amended—

1           (1) in the first sentence of paragraph (1), by  
2           inserting after “Service” the following: “with respect  
3           to services provided to patients of the entity and  
4           (subject to paragraph (7)) to certain other individ-  
5           uals”; and

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

8           “(7) For purposes of paragraph (1), an officer, em-  
9           ployee, or contractor described in such paragraph may be  
10          deemed to be an employee of the Public Health Service  
11          with respect to services provided to individuals who are  
12          not patients of an entity described in paragraph (4) only  
13          if the Secretary determines—

14                 “(A) that the provision of the services to such  
15                 individuals benefits health center patients and gen-  
16                 eral populations that could be served by the health  
17                 center through community-wide intervention efforts  
18                 within the communities served by such health center,  
19                 and facilitates the provision of services to health  
20                 center patients; or

21                 “(B) that such services are otherwise required  
22                 to be provided to such individuals under an employ-  
23                 ment contract (or other similar arrangement) be-  
24                 tween the individual and the entity.”.

1 (c) DETERMINING COMPLIANCE OF ENTITY WITH  
2 REQUIREMENTS FOR COVERAGE.—

3 (1) IN GENERAL.—Section 224(h) of such Act  
4 (42 U.S.C. 233(h)), as added by section 2(b) of the  
5 Federally Supported Health Centers Assistance Act  
6 of 1992, is amended by striking “the entity—” and  
7 inserting the following: “the Secretary, after receiv-  
8 ing such assurances and conducting such investiga-  
9 tion as the Secretary considers necessary, finds that  
10 the entity—”.

11 (2) FINDING.—Section 224 of such Act (42  
12 U.S.C. 233) is amended by adding at the end there-  
13 of the following new subsection:

14 “(i) With respect to subsection (h), the finding of the  
15 Secretary that an entity meets all of the requirements  
16 under such subsection shall apply for the period specified  
17 by the Secretary, and shall be binding for all parties unless  
18 the Secretary reverses such finding for good cause shown  
19 at a later date.”.

20 (d) EFFECTIVE DATE.—The amendments made by  
21 this section shall take effect as if included in the enact-  
22 ment of the Federally Supported Health Centers Assist-  
23 ance Act of 1992.

1 **Subtitle C—Improved Immuniza-**  
2 **tion Delivery and Monitoring**

3 **SEC. 12201. SHORT TITLE, REFERENCES AND PURPOSE.**

4 (a) SHORT TITLE.—This subtitle may be cited as the  
5 “Comprehensive Child Immunization Act of 1993”.

6 (b) REFERENCES.—Except as otherwise expressly  
7 provided, whenever in this subtitle an amendment or re-  
8 peal is expressed in terms of an amendment to, or repeal  
9 of, a section or other provision, the reference shall be con-  
10 sidered to be made to a section or other provision of the  
11 Public Health Service Act (42 U.S.C. 201 et seq.).

12 (c) PURPOSE.—It is the purpose of this subtitle to  
13 ensure that children in the United States are appro-  
14 priately immunized against vaccine preventable infectious  
15 diseases at the earliest appropriate age.

16 **SEC. 12202. MONITORING OF CHILDHOOD IMMUNIZATIONS.**

17 Title XXI of the Public Health Service Act (42  
18 U.S.C. 300aa–1 et seq.) is amended by adding at the end  
19 thereof the following new subtitle:

1 **“Subtitle 3—Improved Immuniza-**  
2 **tion Delivery and Monitoring**  
3 **Systems**

4 **“Part A—List of Vaccines and Administration**

5 **“SEC. 2141. LIST OF PEDIATRIC VACCINES; SCHEDULE FOR**  
6 **ADMINISTRATION.**

7 “(a) RECOMMENDED PEDIATRIC VACCINES.—

8 “(1) IN GENERAL.—The Secretary shall estab-  
9 lish a list of the vaccines that the Secretary rec-  
10 ommends for administration to all children for the  
11 purpose of immunizing the children, subject to such  
12 contraindications for particular medical categories of  
13 children as the Secretary may establish under sub-  
14 section (b)(1)(D). The Secretary shall periodically  
15 review the list, and shall revise the list as appro-  
16 priate.

17 “(2) RULE OF CONSTRUCTION.—

18 “(A) The list of vaccines specified in sub-  
19 paragraph (B) is deemed to be the list of vac-  
20 cines maintained under paragraph (1).

21 “(B) The list of vaccines specified in this  
22 subparagraph is the list of vaccines that, for  
23 purposes of paragraph (1), is established (and  
24 periodically reviewed and as appropriate re-  
25 vised) by the Advisory Committee on Immuni-

1           zation Practices, an advisory committee estab-  
2           lished by the Secretary, acting through the Di-  
3           rector of the Centers for Disease Control and  
4           Prevention.

5           “(b) RECOMMENDED SCHEDULE FOR ADMINISTRA-  
6           TION.—

7           “(1) IN GENERAL.—Subject to paragraph (2),  
8           in the case of a pediatric vaccine, the Secretary shall  
9           establish (and periodically review and as appropriate  
10          revise) a schedule of nonbinding recommendations  
11          for the following:

12                   “(A) The number of immunizations with  
13                   the vaccine that children should receive.

14                   “(B) The ages at which children should re-  
15                   ceive the immunizations.

16                   “(C) The dose of vaccine that should be  
17                   administered in the immunizations.

18                   “(D) Any contraindications regarding ad-  
19                   ministration of the vaccine.

20                   “(E) Such other guidelines as the Sec-  
21                   retary determines to be appropriate with re-  
22                   spect to administering the vaccine to children.

23           “(2) VARIATIONS IN MEDICAL PRACTICE.—In  
24           establishing and revising a schedule under para-  
25           graph (1), the Secretary shall ensure that, in the

1 case of the pediatric vaccine involved, the schedule  
2 provides for the full range of variations in medical  
3 judgment regarding the administration of the vac-  
4 cine, subject to remaining within medical norms.

5 “(3) RULE OF CONSTRUCTION.—

6 “(A) The schedule specified in subpara-  
7 graph (B) is deemed to be the schedule main-  
8 tained under paragraph (1).

9 “(B) The schedule specified in this  
10 subparagraph is the schedule that, for purposes  
11 of paragraph (1), is established (and periodi-  
12 cally reviewed and as appropriate revised) by  
13 the advisory committee specified in subsection  
14 (a)(2)(B).

15 “(c) GENERALLY APPLICABLE RULES OF CONSTRUC-  
16 TION.—This section does not supersede any State law or  
17 requirements with respect to receiving immunizations (in-  
18 cluding any such law relating to religious exemptions or  
19 other exemptions under such State laws).

20 “(d) ISSUANCE OF LIST AND SCHEDULES.—Not  
21 later than 180 days after the date of the enactment of  
22 this section, the Secretary shall establish the initial list  
23 required in subsection (a) and the schedule required in  
24 subsection (b).

1     **“Part B—State Registry System for Immunization**  
2                                     **Information**

3     **“SEC. 2145. PURPOSE.**

4             “It is the purpose of this part to authorize the Sec-  
5 retary, in consultation with State public health officials,  
6 to establish State registry systems to monitor the immuni-  
7 zation status of all children.

8     **“SEC. 2146. GRANTS FOR IMMUNIZATION REGISTRIES.**

9             “(a) IN GENERAL.—For the purpose described in sec-  
10 tion 2145, the Secretary, acting through the Director of  
11 the Centers for Disease Control and Prevention, shall  
12 make an allotment each fiscal year for each State in an  
13 amount determined in accordance with section 2151. The  
14 Secretary shall make a grant to the State of the allotment  
15 made for the State for the fiscal year if the State submits  
16 to the Secretary an application in accordance with section  
17 2150 on behalf of the chief executive officer of such State.

18             “(b) DESIGN OF STATE REGISTRIES.—To carry out  
19 the purpose described in section 2145, a State registry es-  
20 tablished under this part shall be designed to—

21                     “(1) provide accurate and up to date surveil-  
22 lance data regarding immunization rates at the  
23 State and local levels;

24                     “(2) assist in identifying localities with inad-  
25 equate immunization rates to target for necessary  
26 remedial assistance;

1           “(3) assist in the effective administration and  
2 management of immunization programs at State and  
3 local levels by providing data to guide immunization  
4 program efforts;

5           “(4) assist the State in providing and receiving  
6 information on the immunization status of children  
7 who move across geographic boundaries that are cov-  
8 ered by different State or local registries; and

9           “(5) facilitate the linkage of vaccine dosage in-  
10 formation to adverse events reported to the Centers  
11 for Disease Control and Prevention under section  
12 2125(b) and disease outbreak patterns, for the pur-  
13 pose of monitoring vaccine safety and effectiveness.

14          “(c) ELIGIBLE USE OF FUNDS.—The Secretary may  
15 make a grant under subsection (a) only if the State agrees  
16 to expend the grant for the purpose of—

17           “(1) collecting the data described in section  
18 2147;

19           “(2) operating registries to maintain the data  
20 (and establishing such registries, in the case of a  
21 State that is not operating such a registry);

22           “(3) utilizing the data to monitor the extent to  
23 which children have received immunizations in ac-  
24 cordance with the schedule established under section  
25 2141;

1           “(4) notifying parents, as appropriate, if chil-  
2           dren have not received immunizations in accordance  
3           with such schedule;

4           “(5) coordinating and exchanging information  
5           with other State registries to allow the monitoring of  
6           the immunization status of children changing State  
7           of residence; and

8           “(6) such other activities as the Secretary may  
9           authorize with respect to achieving the objectives es-  
10          tablished by the Secretary for the year 2000 for the  
11          immunization status of children in the United  
12          States.

13          “(d) REQUIREMENT REGARDING STATE LAW.—

14                 “(1) IN GENERAL.—The Secretary may make a  
15                 grant under subsection (a) only if the State in-  
16                 volved—

17                         “(A) provides assurances satisfactory to  
18                         the Secretary that, not later than October 1,  
19                         1996, the State will be operating a registry in  
20                         accordance with this part, including having in  
21                         effect such laws and regulations as may be nec-  
22                         essary to so operate such a registry; and

23                         “(B) agrees that, prior to such date, the  
24                         State will make such efforts to operate a reg-

1           istry in accordance with this part as may be au-  
2           thorized in the law and regulations of the State.

3           “(2) RULES OF CONSTRUCTION.—

4                   “(A) With respect to the agreements made  
5           by a State under this part, other than para-  
6           graph (1)(B), the Secretary may require com-  
7           pliance with the agreements only to the extent  
8           consistent with such paragraph.

9                   “(B) The provisions of this part do not au-  
10          thorize the Secretary, as a condition of the re-  
11          ceipt of a grant under subsection (a) by a  
12          State, to prohibit the State from providing any  
13          parent, upon the request of the parent, with an  
14          exemption from the requirements established by  
15          the State pursuant to this part for the collec-  
16          tion of data regarding any child of the parent.

17       **“SEC. 2147. REGISTRY DATA.**

18           “(a) IN GENERAL.—For purposes of section  
19       2146(c)(1), the data described in this section are the data  
20       described in subsection (b) and the data described in sub-  
21       section (c).

22           “(b) DATA REGARDING BIRTH OF CHILD.—With re-  
23       spect to the birth of a child, the data described in this  
24       subsection is as follows:

1           “(1) The name of each child born in the State  
2 involved after the date of the implementation of the  
3 registry (in no event shall such date be later than  
4 October 1, 1996).

5           “(2) Demographic data on the child.

6           “(3) The name of one or both of the parents of  
7 the child. If the child has been given up for adop-  
8 tion, any information regarding the identity of the  
9 birth parent or parents of the child may not be en-  
10 tered into the registry, or if entered, shall be deleted.

11           “(4) The address, as of the date of the birth of  
12 the child, of each parent whose name is received in  
13 the registry pursuant to paragraph (3).

14           “(c) DATA REGARDING INDIVIDUAL IMMUNIZA-  
15 TIONS.—With respect to a child to whom a pediatric vac-  
16 cine is administered in the State involved, the data de-  
17 scribed in this subsection is as follows:

18           “(1) The name, age, and address of the child.

19           “(2) The date on which the vaccine was admin-  
20 istered to the child.

21           “(3) The name and business address of the  
22 health care provider that administered the vaccine.

23           “(4) The address of the facility at which the  
24 vaccine was administered.

1           “(5) The name and address of one or both par-  
2           ents of the child as of the date on which the vaccine  
3           was administered, if such information is available to  
4           the health care provider.

5           “(6) The type of vaccine.

6           “(7) The lot number or other information iden-  
7           tifying the particular manufacturing batch of the  
8           vaccine.

9           “(8) The dose of vaccine that was administered.

10          “(9) A notation of the presence of any adverse  
11          medical reactions that the child experienced in rela-  
12          tion to the vaccine and of which the health care pro-  
13          vider is aware, in accordance with section 2125.

14          “(10) The presence of contraindications noted  
15          by the health care provider with respect to adminis-  
16          tration of the vaccine to the child.

17          “(11) Such other data regarding immunizations  
18          for the child, including identifying data, as the Sec-  
19          retary, in consultation with State public health offi-  
20          cials, may require consistent with applicable law (in-  
21          cluding social security account numbers furnished  
22          pursuant to section 205(c)(2)(E) of the Social Secu-  
23          rity Act).

24          “(d) LIMITATION.—The Secretary may not establish  
25          information reporting requirements in addition to those

1 described in subsection (c) if such requirements are un-  
2 duly burdensome.

3 “(e) DATE CERTAIN FOR SUBMISSION TO REG-  
4 ISTRY.—The Secretary may make a grant under section  
5 2146 only if the State involved agrees to ensure that, with  
6 respect to a child—

7 “(1) the data described in subsection (b) are  
8 submitted to the registry under such section as soon  
9 as possible but in no event later than 8 weeks after  
10 the date on which the child is born; and

11 “(2) the data described in subsection (c) with  
12 respect to a vaccine are submitted to such registry  
13 as soon as possible but in no event later than 4  
14 weeks after the date on which the vaccine is admin-  
15 istered to the child.

16 “(f) UNIFORMITY IN METHODOLOGIES.—The Sec-  
17 retary shall, in consultation with State public health offi-  
18 cials, establish standards regarding the methodologies  
19 used in establishing and operating registries under section  
20 2146, and may make a grant under such section only if  
21 the State agrees to comply with the standards. The Sec-  
22 retary shall provide maximum flexibility to the States  
23 while also retaining a reasonable degree of uniformity  
24 among the States in such methodologies for the purpose

1 of ensuring the utility, comparability, and exchange of the  
2 data maintained in such registries.

3 “(g) COORDINATION AMONG STATES.—The Sec-  
4 retary may make a grant under section 2146 to a State  
5 only if, with respect to the operation of the registry of  
6 the State under such section, the State agrees to transfer  
7 that information contained in the State registry pursuant  
8 to section 2146 to other States upon the request of such  
9 States for such information.

10 **“SEC. 2148. FEDERAL STANDARDS ON CONFIDENTIALITY.**

11 “(a) ESTABLISHMENT.—

12 “(1) IN GENERAL.—The Secretary, in consulta-  
13 tion with the States, shall by regulation establish  
14 standards providing for maintaining the confidential-  
15 ity of the identity of individuals with respect to  
16 whom data are maintained in registries under sec-  
17 tion 2146. Such standards shall, with respect to a  
18 State, provide that the State is to have in effect laws  
19 or regulations regarding such confidentiality, includ-  
20 ing appropriate penalties for violation of the laws.  
21 The Secretary may make a grant under such section  
22 only if the State involved agrees to comply with the  
23 standards.

24 “(2) USE OF DISCLOSURE.—

1           “(A) No personally identifiable information  
2 relating to a child or to the parent or guardian  
3 of such child that is collected or maintained by  
4 the State registry may be used or disclosed by  
5 any holder of such information except as per-  
6 mitted for—

7                   “(i) the monitoring of a child’s immu-  
8 nization status;

9                   “(ii) oversight, audit, and evaluation  
10 of the immunization delivery and registry  
11 systems;

12                   “(iii) activities relating to establishing  
13 and maintaining a safe and effective sup-  
14 ply of recommended childhood vaccine;

15                   “(iv) processing of insurance claims  
16 for payment for vaccine administration  
17 (but only to the extent necessary for proc-  
18 essing claims); and

19                   “(v) administration of the National  
20 Vaccine Injury Compensation Program  
21 under subtitle 2.

22           “(B) Information regarding immunizations  
23 provided as described in subparagraph (A)(i)  
24 may be used or disclosed only with the written

1 authorization of the individual to whom it refers  
2 or to the parent with custody of such individual.

3 “(b) USE OF SOCIAL SECURITY ACCOUNT NUM-  
4 BERS.—Any usage or disclosure of data in registries under  
5 section 2146 that consists of social security account num-  
6 bers and related information which is otherwise permitted  
7 under this part may be exercised only to the extent per-  
8 mitted under section 205(c)(2)(E) of the Social Security  
9 Act. For purposes of the preceding sentence, the term ‘re-  
10 lated information’ has the meaning given such term in  
11 clause (iv)(II) of such section.

12 **“SEC. 2149. PROVIDER PARTICIPATION.**

13 “(a) IN GENERAL.—The State shall monitor and en-  
14 force compliance by health care providers with the require-  
15 ments of sections 2147 and 2148 and section 2155(b) for  
16 all doses of pediatric vaccine administered in the State.  
17 The State shall establish procedures satisfactory to the  
18 Secretary for discontinuing the distribution of federally  
19 purchased or State purchased vaccine for any health care  
20 provider who fails to comply with the requirements of sec-  
21 tion 2147 and for reinstating such vaccine supply to such  
22 provider upon receiving from such provider—

23 “(1) the reports necessary to make current and  
24 complete the information that would have been fur-

1 nished to the State registry between the dates of the  
2 provider's termination and reinstatement; and

3 “(2) satisfactory assurances regarding the pro-  
4 vider's future compliance.

5 “(b) REPORTS TO SECRETARY.—The Secretary may  
6 make a grant under section 2146 only if the State involved  
7 agrees to submit to the Secretary such reports as the Sec-  
8 retary determines to be appropriate with respect to the  
9 activities of the State under this part.

10 **“SEC. 2150. APPLICATION FOR GRANT.**

11 “An application by a State for a grant under section  
12 2146 is in accordance with this section if the application—

13 “(1) is submitted not later than the date speci-  
14 fied by the Secretary;

15 “(2) contains each agreement required in this  
16 part;

17 “(3) contains any information required in this  
18 part to be submitted to the Secretary; and

19 “(4) is in such form, is made in such manner,  
20 and contains such agreements, assurances, and in-  
21 formation as the Secretary determines to be nec-  
22 essary to carry out this part.

23 **“SEC. 2151. DETERMINATION OF AMOUNT OF ALLOTMENT.**

24 “The Secretary shall determine the amount of the al-  
25 lotments required in section 2146 for States for a fiscal

1 year in accordance with a formula established by the Sec-  
2 retary that allots the amounts appropriated under section  
3 2152 for the fiscal year on the basis of the costs of the  
4 States in establishing and operating registries under sec-  
5 tion 2146.

6 **“SEC. 2152. AUTHORIZATION OF APPROPRIATIONS.**

7 “For the purpose of carrying out this part, other than  
8 section 2153, there are authorized to be appropriated  
9 \$152,000,000 for fiscal year 1994, \$125,000,000 for fis-  
10 cal year 1995, and \$35,000,000 for each of the fiscal years  
11 1996 through 1999.

12 **“SEC. 2153. NATIONAL IMMUNIZATION SURVEILLANCE PRO-**  
13 **GRAM.**

14 “(a) IN GENERAL.—The Secretary shall establish a  
15 national immunization surveillance program for the pur-  
16 pose of assessing the effects of the programs and activities  
17 provided for in this subtitle towards appropriately immu-  
18 nizing children and facilitating State immunization reg-  
19 istries. The national immunization surveillance program  
20 shall—

21 “(1) provide technical assistance to States for  
22 the development of vaccination registries and mon-  
23 itoring systems; and

24 “(2) receive aggregate epidemiologic data (that  
25 is in a format that is not person specific) collected

1 by States as provided for in section 2147 at inter-  
2 vals determined appropriate by the Secretary for the  
3 purpose of—

4 “(A) compiling accurate and up-to-date  
5 surveillance data regarding immunization rates  
6 at the State level in order to assess the progress  
7 made towards achieving nationally established  
8 immunization goals;

9 “(B) assisting in the effective administra-  
10 tion and management of immunization pro-  
11 grams at the State level by providing technical  
12 assistance to guide immunization program ef-  
13 forts at the request of the State;

14 “(C) providing technical assistance to  
15 States and localities to facilitate monitoring the  
16 immunization status of children who move  
17 across geographic boundaries that are covered  
18 by different State or local registries at the re-  
19 quest of such States or localities; and

20 “(D) monitoring the safety and effective-  
21 ness of vaccines by linking vaccine dosage infor-  
22 mation with adverse events reporting under sec-  
23 tion 2125(b) and disease outbreak patterns.

24 “(b) RULE OF CONSTRUCTION.—Nothing in this sub-  
25 title shall be construed to authorize the release of person

1 specific information to the Secretary for the purpose of  
2 immunization surveillance.

3 “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated such sums as may be  
5 necessary to carry out this section in each of the fiscal  
6 years 1994 through 1999.

7 **“SEC. 2154. REPORT.**

8 “Not later than January 1, 1995, and biennially  
9 thereafter, the Secretary shall prepare and submit to the  
10 appropriate committees of Congress a report concerning  
11 the planning, development, operation and effectiveness of  
12 the national immunization surveillance program and the  
13 State immunization registries.

14 **“Part C—Distribution of Vaccines, Public Outreach  
15 and Education**

16 **“SEC. 2155. DISTRIBUTION OF VACCINES.**

17 “(a) IN GENERAL.—

18 “(1) HEALTH CARE PROVIDERS.—The Sec-  
19 retary shall provide for the distribution, without  
20 charge, of recommended pediatric vaccines (in ac-  
21 cordance with section 2141) purchased by the Sec-  
22 retary to health care providers who serve children  
23 and who—

1           “(A) are members of a uniformed service,  
2           or are officers or employees of the United  
3           States;

4           “(B) are health centers (as defined in sec-  
5           tion 2162(2)); or

6           “(C) provide services under section 503 of  
7           the Indian Health Care Improvement Act or  
8           pursuant to a contract under section 102 of the  
9           Indian Self Determination Act.

10          “(2) STATES.—The Secretary shall provide for  
11          the distribution, without charge, of those rec-  
12          ommended pediatric vaccines that are purchased by  
13          the Secretary and provided to States for the pur-  
14          poses of immunizing medicaid-eligible children, and  
15          additional vaccines that may be purchased by the  
16          Secretary for children within those States.

17          “(b) DUTIES OF HEALTH CARE PROVIDERS.—

18                 “(1) FREE PROVISION TO CHILDREN.—A health  
19                 care provider or entity receiving vaccine under this  
20                 section may use such vaccine only for administration  
21                 to children and may not impose a charge for such  
22                 vaccine. A provider or health care entity may impose  
23                 a fee that reflects actual regional costs as deter-  
24                 mined by the Secretary for the administration of  
25                 such vaccine, except that a provider may not deny

1 a child a vaccination due to the inability of the  
2 child's parent to pay an administration fee.

3 “(2) REPORTING REQUIREMENTS.—A health  
4 care provider receiving vaccine under this section  
5 shall report the information required under section  
6 2147 to the applicable State registry operated pur-  
7 suant to a grant under section 2146 if such State  
8 registry exists. The provider shall additionally report  
9 to such State registry any occurrence reported to the  
10 Secretary pursuant to section 2125(b). The provider  
11 shall also provide regular and periodic estimates to  
12 the State of the provider's future dosage needs for  
13 recommended childhood vaccines distributed under  
14 this section. All reports shall be made with such fre-  
15 quency and in such detail as the Secretary, in con-  
16 sultation with State public health officials, may pre-  
17 scribe.

18 **“SEC. 2156. IMPROVED IMMUNIZATION DELIVERY, OUT-**  
19 **REACH AND EDUCATION.**

20 “(a) FEDERAL EFFORTS.—The Secretary, acting  
21 through the Centers for Disease Control and Prevention  
22 and in conjunction with State health officials and other  
23 appropriate public and private organizations, shall conduct  
24 the following activities to improve Federal, State and local

1 vaccine delivery systems and immunization outreach and  
2 education efforts:

3           “(1) NATIONAL PUBLIC AWARENESS CAM-  
4 PAIGN.—

5           “(A) IN GENERAL.—The Secretary, in con-  
6 junction with State health officials and other  
7 appropriate public and private organizations,  
8 shall develop and implement a National Immu-  
9 nization Public Awareness Campaign to assist  
10 families (through bilingual means if necessary)  
11 of children under the age of 2 years, and ex-  
12 pectant parents, in obtaining knowledge con-  
13 cerning the importance of having their children  
14 immunized and in identifying the vaccines,  
15 schedules for immunization, and vaccine pro-  
16 vider locations, appropriate with respect to their  
17 children.

18           “(B) IMPLEMENTATION.—In implementing  
19 the Campaign under subparagraph (A), the  
20 Secretary shall ensure that—

21           “(i) new and innovative methods are  
22 developed and utilized to publicly advertise  
23 the need to have children immunized in a  
24 timely manner;

1           “(ii) print, radio and television media  
2           are utilized to convey immunization infor-  
3           mation to the public; and

4           “(iii) with respect to immunization in-  
5           formation, efforts are made to target preg-  
6           nant women and the parents of children  
7           under the age of 2.

8           “(2) INTERAGENCY COMMITTEE ON IMMUNIZA-  
9           TION.—The Secretary, in conjunction with the Sec-  
10          retary of Agriculture, the Secretary of Housing and  
11          Urban Development, and the Secretary of Edu-  
12          cation, shall carry out activities through the Inter-  
13          agency Committee on Immunization to incorporate  
14          immunization status assessments and referral serv-  
15          ices as an integral part of the process by which indi-  
16          viduals apply for assistance under—

17               “(A) the food stamp program under the  
18               Food Stamp Act of 1977;

19               “(B) section 17 of the Child Nutrition Act  
20               of 1966;

21               “(C) the Head Start Act;

22               “(D) part A of title IV of the Social Secu-  
23               rity Act;

24               “(E) title XIX of the Social Security Act;

1           “(F) any of the housing assistance laws of  
2           the United States; and

3           “(G) other programs determined appro-  
4           priate by any of the Secretaries described in  
5           this paragraph.

6           “(3) EXPANDED OPPORTUNITY FOR NATIONAL  
7           SERVICE.—The Secretary, in conjunction with the  
8           Commission on National and Community Service  
9           and other independent agencies, is encouraged to de-  
10          velop opportunities for participants in national and  
11          community service programs to contribute to local  
12          initiatives for the improvement of immunization  
13          services, including public outreach and education ef-  
14          forts.

15          “(b) GRANTS TO STATES.—

16                 “(1) IN GENERAL.—

17                         “(A) The Secretary may award grants to  
18                         States to enable such State to develop, revise  
19                         and implement immunization improvement  
20                         plans as described in paragraph (2).

21                         “(B) To be eligible to receive a grant  
22                         under subparagraph (A), a State shall prepare  
23                         and submit to the Secretary an application at  
24                         such time, in such manner, and containing such  
25                         information as the Secretary may require.

1           “(2) DESIGN.—A State immunization improve-  
2           ment plan shall be designed to improve immuniza-  
3           tion delivery, outreach, education and coordination  
4           within the State. Such plan shall provide for the cre-  
5           ation of—

6                   “(A) a vaccine provider education cam-  
7                   paign and the distribution of any other mate-  
8                   rials determined to be appropriate by State  
9                   health officials—

10                           “(i) to enable such providers to make  
11                           the best use of vaccination opportunities;  
12                           and

13                           “(ii) to educate such providers con-  
14                           cerning their obligation to report immuni-  
15                           zation information with respect to their pa-  
16                           tients to State registries;

17                   “(B) expanded capacity for the delivery of  
18                   immunizations through—

19                           “(i) increasing the number or type of  
20                           facilities through which vaccines may be  
21                           made available and the capacity of such fa-  
22                           cilities to immunize more children;

23                           “(ii) developing alternative methods of  
24                           delivering vaccines, such as mobile health  
25                           clinics;

1           “(iii) increasing the number of hours  
2           during which vaccines are made available  
3           by providers within the State; or

4           “(iv) coordinating with federally quali-  
5           fied health centers to reach and immunize  
6           underserved children through education,  
7           outreach, tracking, and the provision of  
8           services;

9           except that, the Secretary may waive any spe-  
10          cific requirement of this subparagraph if the  
11          Secretary determines that State immunization  
12          delivery efforts are sufficient without the impo-  
13          sition of such requirement;

14          “(C) population-based assessment criteria  
15          through which the State is able to assess the ef-  
16          fectiveness of immunization activities in the  
17          State, which may be fulfilled through the imple-  
18          mentation of a State immunization registry  
19          under section 2146;

20          “(D) a public awareness campaign, in con-  
21          junction with the National Campaign estab-  
22          lished under subsection (a)(1), to provide par-  
23          ents with information about the importance of  
24          immunization, the types and schedules for the

1 administration of vaccines, and the locations of  
2 vaccines providers;

3 “(E) coordinated community outreach ac-  
4 tivities among public or private health pro-  
5 grams, including local health departments and  
6 health centers, and other public or private enti-  
7 ties, to encourage and facilitate the ability of  
8 parents to obtain immunization services for  
9 their children; and

10 “(F) other activities that are not inconsis-  
11 tent with the purposes of this subtitle, subject to  
12 the approval of the Secretary.

13 “(3) IMMUNIZATION IMPROVEMENT PLAN AP-  
14 PROVAL.—

15 “(A) GOALS.—As part of the immunization  
16 improvement plan of a State, the State shall es-  
17 tablish immunization rate goals for children re-  
18 siding within the State.

19 “(B) APPROVAL.—The immunization im-  
20 provement plan developed by a State under this  
21 subsection shall be submitted to the Secretary  
22 for approval prior to the distribution of grant  
23 funds to the States under this subsection. The  
24 Secretary shall periodically review the progress  
25 that the State has made under such plan in

1 achieving the goals established under subpara-  
2 graph (A).

3 “(C) DISTRIBUTION OF GRANTS.—In  
4 awarding grants under this section, the Sec-  
5 retary shall ensure that grant awards will be  
6 equitably distributed between rural and urban  
7 areas. In determining such distribution, the  
8 Secretary shall take into account the added  
9 costs of supporting the health care delivery in-  
10 frastructure in sparsely populated areas.

11 “(D) REPORTING.—A State shall annually  
12 prepare and submit to the Director of the Cen-  
13 ters for Disease Control and Prevention a re-  
14 port concerning the implementation of the State  
15 immunization improvement plan. If the Director  
16 or the Secretary, in reviewing the reports sub-  
17 mitted under this subparagraph determine that  
18 the State has exceeded the goals established  
19 under subparagraph (A), the Secretary may  
20 award a bonus to the State in an amount not  
21 to exceed 5 percent of the amount the State re-  
22 ceived under the grant for the purposes of the  
23 grant.

24 “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
25 are authorized to be appropriated to carry out this section,

1 \$250,000,000 for fiscal year 1994, and such sums as may  
2 be necessary for each of the fiscal years 1995 through  
3 1999.

4 **“Part D—General Provisions**

5 **“SEC. 2161. REPORT.**

6 “Not later than October 1, 1995, and biennially  
7 thereafter, the Secretary shall prepare and submit to the  
8 appropriate committees of Congress a report concerning  
9 the costs, efficiency, and effectiveness of procedures estab-  
10 lished to deliver vaccine to health care providers.

11 **“SEC. 2162. NATIONAL VACCINE PROGRAM.**

12 “The Secretary shall authorize a report to be pre-  
13 pared by the National Academy of Sciences concerning the  
14 role of the National Vaccine Program established under  
15 this title in achieving progress towards the nationally es-  
16 tablished immunization goals for the year 2000, and rec-  
17 ommendations with respect to the changes in such Pro-  
18 gram that would facilitate greater progress towards  
19 achieving such goals.

20 **“SEC. 2163. DEFINITIONS.**

21 “For purposes of this subtitle—

22 “(1) HEALTH CARE PROVIDER.—The term  
23 ‘health care provider’, with respect to the adminis-  
24 tration of vaccines to children, means an entity that  
25 is licensed or otherwise authorized for such adminis-

1 tration under the law of the State in which the en-  
2 tity administers the vaccine, subject to section  
3 333(e).

4 “(2) HEALTH CENTER.—The term ‘health cen-  
5 ter’ means—

6 “(A) a federally-qualified health center, as  
7 defined in section 1905(l)(2) of the Social Secu-  
8 rity Act; or

9 “(B) a public or nonprofit private entity  
10 receiving Federal funds under—

11 “(i) section 329, 330 or 340;

12 “(ii) section 340A (relating to grants  
13 for health services for residents of public  
14 housing); or

15 “(iii) section 501(a)(2) of the Social  
16 Security Act (relating to special projects of  
17 regional and national significance).

18 “(3) IMMUNIZATION.—The term ‘immunization’  
19 means an immunization against a vaccine-prevent-  
20 able disease.

21 “(4) PARENT.—The term ‘parent’, with respect  
22 to a child, means a legal guardian of the child.

23 “(5) PEDIATRIC VACCINE.—The term ‘pediatric  
24 vaccine’ means a vaccine included on the list estab-  
25 lished under section 2141.

1           “(6) STATE.—The term ‘State’ means the 50  
2 States, the District of Columbia, the Commonwealth  
3 of Puerto Rico, Guam, American Samoa, the U.S.  
4 Virgin Islands, the Republic of the Marshall Islands,  
5 Micronesia, the Northern Mariana Islands, and  
6 Palau.”.

7 **SEC. 12203. NATIONAL VACCINE INJURY COMPENSATION**  
8 **PROGRAM AMENDMENTS.**

9 (a) AMENDMENT OF VACCINE INJURY TABLE.—

10           (1) ADDITION OF VACCINES.—Section 2114 (42  
11 U.S.C. 300aa-14) is amended by adding at the end  
12 thereof the following new subsection:

13           “(f) ADDITION OF VACCINES TO TABLE.—

14           “(1) IN GENERAL.—The Vaccine Injury table  
15 contained in subsection (a) shall also include any  
16 recommended childhood vaccine included in the list  
17 promulgated by the Secretary under section 2141.

18           “(2) REVIEW OF INFORMATION AND REVI-  
19 SION.—Not later than 2 years after the addition of  
20 a new vaccine to the table contained in subsection  
21 (a), and on a regular basis thereafter, the Secretary  
22 shall review information obtained under sections  
23 2125 and part B of subtitle 3, and based on such  
24 review (and other relevant information) shall, as ap-

1       appropriate, develop with respect to such new vac-  
2       cine—

3               “(A) revisions with respect to illnesses, dis-  
4               abilities, injuries or conditions covered by such  
5               table;

6               “(B) appropriate specifications of the time  
7               period for the first symptom or manifestation of  
8               onset or of significant aggravation of such ill-  
9               nesses, disabilities, injuries or condition after  
10              vaccine administration, for purposes of receiv-  
11              ing compensation under the Program; and

12              “(C) recommendations as to the amount of  
13              tax that should be imposed under section 4131  
14              of the Internal Revenue Code of 1986 for each  
15              dose of vaccine.

16              “(3) LIMITATION.—The Secretary may modify  
17              the table contained in subsection (a) pursuant to  
18              paragraphs (1) and (2) only in accordance with sub-  
19              section (c).

20              “(4) REVISION.—For purposes of section  
21              2116(b), the addition of vaccine to the table con-  
22              tained in subsection (a) by operation of this sub-  
23              section shall constitute a revision of the table.”.

1           (2) ATTORNEYS FEES.—Section 2115(e) (42  
2 U.S.C. 300aa–15(e)) is amended by adding at the  
3 end thereof the following new paragraph:

4           “(4) The special master may award reasonable  
5 attorneys fees whether or not an election has been  
6 made under section 2121(a) to file a civil action con-  
7 cerning such petition.”.

8           (3) CONSENT FOR ANNUITY.—Subparagraphs  
9 (A) and (B) of section 2115(f)(4) are amended by  
10 striking “, with the consent of the petitioner,” each  
11 place that such appears.

12           (4) TIME PERIODS FOR FEES AND COSTS.—

13           (A) IN GENERAL.—Section 2115(e) (42  
14 U.S.C. 300aa–15(e)) (as amended by paragraph  
15 (3)) is further amended by adding at the end  
16 thereof the following new paragraph:

17           “(5) With respect to a petitioners’ application  
18 for attorneys’ fees and costs—

19           “(A) if the respondent enters no objection  
20 to such application within 21 days of the date  
21 on which the application was filed (unless such  
22 time period is extended by the special master  
23 with the consent of the petitioner) the special  
24 master shall enter a decision on such applica-  
25 tion within 30 days of such filing;

1           “(B) if the respondent files an objection to  
2 such application and the special master does  
3 not enter a decision with respect to the applica-  
4 tion within 60 days after the date on which the  
5 objection is filed, the special master involved  
6 shall, upon the written request of the petitioner,  
7 enter a decision within 15 days after the filing  
8 of such request; and

9           “(C) if the respondent files an objection to  
10 such application and the petitioner moves to re-  
11 duce costs and fees as provided for in the objec-  
12 tion, the special master shall enter a decision  
13 within 5 days after the receipt of the petition-  
14 er’s motion.

15       The chief special master, upon the request of a spe-  
16 cial master, may waive the time limitations applica-  
17 ble to the special master under this paragraph if the  
18 special master demonstrates that complicating fac-  
19 tors exist with respect to the issues involved to  
20 which the time limitation applies.”.

21           (B) APPLICATION.—The amendment made  
22 by subparagraph (A) shall apply to all petition-  
23 ers’ applications for attorneys’ fees and costs  
24 filed under section 2115(e) of the Public Health

1 Service Act which are pending on the date of  
2 enactment of this Act.

3 (5) AUTHORIZATION OF APPROPRIATIONS.—  
4 Section 2115(j) (42 U.S.C. 300aa-15(j)) is amended  
5 by striking “\$80,000,000 for each succeeding fiscal  
6 year” and inserting in lieu thereof “\$110,000,000  
7 for each succeeding fiscal year”.

8 (6) LIMITATION OF ACTIONS.—Section 2116(b)  
9 (42 U.S.C. 300aa-16(b)) is amended by striking  
10 “such person may file” and inserting “or to signifi-  
11 cantly increase the likelihood of obtaining compensa-  
12 tion, such person may, notwithstanding section  
13 2111(b)(2), file”.

14 (b) EXTENSION OF TIME FOR DECISION.—

15 (1) JURISDICTION.—Section 2112(d)(3)(D) (42  
16 U.S.C. 300aa-12(d)(3)(D)) is amended by striking  
17 “540 days” and inserting “30 months (but for not  
18 more than 6 months at a time)”.

19 (2) REPORT ON COLLECTIONS.—Section 2117  
20 (42 U.S.C. 300aa-17) is amended by adding at the  
21 end thereof the following new subsection:

22 “(c) REPORT.—The Attorney General shall, on Janu-  
23 ary 1 of each year, prepare and submit to the appropriate  
24 committees of Congress a report concerning amounts col-  
25 lected under this section.”.

1           (3) INCREASED RESPONSIBILITIES OF COMMIS-  
2           SION.—Section 2119(f) (42 U.S.C. 300aa–19(f)) is  
3           amended—

4                   (A) by striking “and” at the end of para-  
5                   graph (4);

6                   (B) by striking the period at the end of  
7                   paragraph (5) and inserting “, and”; and

8                   (C) by adding at the end thereof the fol-  
9                   lowing new paragraph:

10           “(6) monitor the balance of the Vaccine Injury  
11           Trust Fund established by section 9510 of the Inter-  
12           nal Revenue Code and, as appropriate, recommend  
13           changes in the tax per dose of vaccine imposed  
14           under section 4131 of such Code.”.

15           (c) SIMPLIFICATION OF VACCINE INFORMATION MA-  
16           TERIALS.—

17           (1) INFORMATION.—Section 2126(b) (42  
18           U.S.C. 300aa–26(b)) is amended—

19                   (A) by striking “by rule” in the matter  
20                   preceding paragraph (1);

21                   (B) in paragraph (1), by striking “90” and  
22                   inserting “30”; and

23                   (C) in paragraph (2), by striking “, appro-  
24                   priate health care providers and parent organi-  
25                   zations”.

1           (2) REQUIREMENTS.—Section 2126(c) (42  
2 U.S.C. 300aa–26(c)) is amended—

3           (A) in the matter preceding paragraph (1),  
4           by inserting “shall be based on available data  
5           and information,” after “such materials”; and

6           (B) by striking out paragraphs (1) through  
7           (10) and inserting in lieu thereof the following  
8           new paragraphs:

9           “(1) a concise description of the benefits of the  
10          vaccine;

11          “(2) a concise description of the risks associ-  
12          ated with the vaccine;

13          “(3) a statement of the availability of the Na-  
14          tional Vaccine Injury Compensation Program;

15          “(4) a statement of the availability from the  
16          Secretary of more detailed written information con-  
17          cerning the information required under paragraphs  
18          (1), (2), and (3), that shall be made available to the  
19          parent, legal guardian, or other responsible person  
20          upon request; and

21          “(5) such other relevant information as deter-  
22          mined appropriate by the Secretary.”.

23          (3) OTHER INDIVIDUALS.—Subsections (a) and  
24          (d) of section 2126 (42 U.S.C. 300aa–26(a) and  
25          (d)) are amended by inserting “or to any other indi-

1       vidual” immediately after “to the legal representa-  
2       tive of any child” each place that such occurs.

3               (4) PROVIDER DUTIES.—Subsection (d) of sec-  
4       tion 2126 (42 U.S.C. 300aa–26(d)) is amended—

5                       (A) by striking all after “subsection (a),”  
6                       the second place it appears in the first sentence  
7                       and inserting “supplemented with visual presen-  
8                       tations or oral explanations, in appropriate  
9                       cases.”; and

10                      (B) by striking “or other information” in  
11                      the last sentence.

12       (d) AUTHORIZATION OF APPROPRIATIONS.—Part A  
13       of subtitle 2 of title XXI (42 U.S.C. 300aa–10 et seq.)  
14       is amended by adding at the end thereof the following new  
15       section:

16                      “AUTHORIZATION OF APPROPRIATIONS

17                      “SEC. 2120. (a) SECRETARY.—For purposes of ad-  
18       ministering this part, there are authorized to be appro-  
19       priated from the Vaccine Injury Compensation Trust  
20       Fund established under section 9510(c) of the Internal  
21       Revenue Code of 1986, to the Secretary, \$3,000,000 for  
22       each of the fiscal years 1994, 1995 and 1996.

23                      “(b) ATTORNEY GENERAL.—For purposes of admin-  
24       istering this part, there are authorized to be appropriated  
25       from the Vaccine Injury Compensation Trust Fund de-  
26       scribed in subsection (a), to the Attorney General,

1 \$3,000,000 for each of the fiscal years 1994, 1995 and  
2 1996.

3 “(c) COURT OF FEDERAL CLAIMS.—For purposes of  
4 administering this part, there are authorized to be appro-  
5 priated from the Vaccine Injury Compensation Trust  
6 Fund described in subsection (a), to the Court of Federal  
7 Claims, \$3,000,000 for each of the fiscal years 1994, 1995  
8 and 1996.”.

9 **SEC. 12204. MISCELLANEOUS PROVISIONS.**

10 Section 317(k) (42 U.S.C. 247b(k)) is amended—

11 (1) by striking out paragraph (1); and

12 (2) by redesignating paragraphs (2) through  
13 (5) as paragraphs (1) and (4), respectively.

14 **Subtitle D—ERISA Amendments**

15 **CHAPTER 1—GROUP HEALTH AMENDMENTS**

16 **SEC. 12301. COORDINATION OF ERISA PREEMPTION RULES**  
17 **WITH SOCIAL SECURITY ACT PROVISIONS**  
18 **PROVIDING FOR LIABILITY OF THIRD PAR-**  
19 **TIES AND CHILD HEALTH INSURANCE SUP-**  
20 **PORT ENFORCEMENT.**

21 (a) IN GENERAL.—Paragraph (8) of section 514(b)  
22 of the Employee Retirement Income Security Act of 1974  
23 (29 U.S.C. 1144(b)(8)) is amended to read as follows:

24 “(8)(A) Subsection (a) of this section shall not apply  
25 to any State law to the extent necessary to permit the

1 State to comply with the following requirements for the  
2 receipt of Federal financial assistance under title XIX of  
3 the Social Security Act:

4 “(i) subparagraphs (A), (B), and (I) of section  
5 1902(a)(25) of such Act (relating to third-party li-  
6 ability) and section 1903(o) of such Act (relating to  
7 medicaid as secondary payor), as in effect on Octo-  
8 ber 1, 1993; and

9 “(ii) sections 1902(a)(60) and 1908 of such Act  
10 (relating to assignment of rights of payment and  
11 child health insurance support), as in effect on the  
12 date of the enactment of the Omnibus Budget Rec-  
13 onciliation Act of 1993.

14 “(B) Paragraph (2)(B) shall not apply to any State  
15 law to the extent necessary to permit the compliance of  
16 the State with any of the requirements described in sub-  
17 paragraph (A).”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 subsection (a) shall take effect October 1, 1993.

20 **SEC. 12302. CONTINUED COVERAGE OF COSTS OF A PEDI-**  
21 **ATRIC VACCINE UNDER GROUP HEALTH**  
22 **PLANS.**

23 (a) IN GENERAL.—Part 6 of subtitle B of title I of  
24 the Employee Retirement Income Security Act of 1974

1 (29 U.S.C. 1161 et seq.) is amended by adding at the end  
 2 the following new section:

3 **“SEC. 609. CONTINUED COVERAGE OF COSTS OF A PEDI-**  
 4 **ATRIC VACCINE UNDER GROUP HEALTH**  
 5 **PLANS.**

6       “A group health plan may not reduce its coverage of  
 7 the costs of pediatric vaccines (as defined under section  
 8 2162 of the Public Health Service Act) below the coverage  
 9 it provided as of May 1, 1993.”.

10       (b) CONFORMING AMENDMENT.—The table of con-  
 11 tents in section 1 of such Act is amended by adding after  
 12 the item relating to section 608 the following new item:

“Sec. 609. Continued coverage of costs of a pediatric vaccine under group  
 health plans.”.

13       (c) EFFECTIVE DATE.—The amendments made by  
 14 this section shall apply with respect to plan years begin-  
 15 ning after the date of the enactment of this Act.

16       **CHAPTER 2—LIABILITIES AND PENALTIES**

17 **SEC. 12311. LIABILITY FOR KNOWING PARTICIPATION IN A**  
 18 **BREACH OF FIDUCIARY DUTY.**

19       Section 409 of the Employee Retirement Income Se-  
 20 curity Act of 1974 (29 U.S.C. 1109) is amended by adding  
 21 at the end the following new subsection:

22       “(c) If any person who is not a fiduciary of a plan  
 23 knowingly participates in an act or omission of a fiduciary  
 24 knowing that the act or omission was a breach of fiduciary

1 responsibility of the fiduciary, such person shall be jointly  
2 and severally liable—

3 “(1) to make good any losses (including lost  
4 profits) to the plan resulting from the breach,

5 “(2) to restore to the plan any profits of such  
6 person which have been made as a result of the  
7 breach, and

8 “(3) to provide other relief available under sec-  
9 tions 502(a)(3) and (a)(5) by reason of the breach.”

10 **SEC. 12312. CIVIL ENFORCEMENT OF ERISA.**

11 (a) SUITS BY PARTICIPANTS, ETC.—Paragraph (3)  
12 of section 502(a) of the Employee Retirement Income Se-  
13 curity Act of 1974 (29 U.S.C. 1132(a)) is amended to  
14 read as follows:

15 “(3) by a participant, beneficiary, or fidu-  
16 ciary—

17 “(A) to enjoin any act or practice which  
18 violates any provision of this title or the terms  
19 of the plan,

20 “(B) to provide participants and bene-  
21 ficiaries the full economic value of any benefits  
22 they would have received absent such violations,  
23 or

24 “(C) to obtain any other appropriate equi-  
25 table relief (including back pay)—

1 “(i) to redress such violations, or

2 “(ii) to enforce any provision of this  
3 title or the terms of the plan;

4 and any amounts recovered under this paragraph  
5 shall be subject to a civil penalty as provided under  
6 subsection (l);”.

7 (b) ACTIONS BY SECRETARY.—Paragraph (5) of sec-  
8 tion 502(a) of such Act (29 U.S.C. 1132(a)) is amended  
9 to read as follow:

10 “(5) except as otherwise provided in subsection  
11 (b), by the Secretary—

12 “(A) to enjoin any act or practice which  
13 violates any provision of this title,

14 “(B) to provide participants and bene-  
15 ficiaries the full economic value of any benefits  
16 they would have received absent such violations,  
17 or

18 “(C) to obtain any other appropriate equi-  
19 table relief (including back pay)—

20 “(i) to redress such violations, or

21 “(ii) to enforce any provision of this  
22 title;

23 and any amounts recovered under this paragraph  
24 shall be subject to a civil penalty as provided under  
25 subsection (l); or”.

1 (c) LIMITATION ON JUDGMENTS.—Section 502(a) of  
2 such Act (29 U.S.C. 1132(a)) is amended by adding at  
3 the end the following new sentences:

4 “A court shall not award punitive damages, nor shall a  
5 court award monetary relief against a plan to the extent  
6 such monetary relief would exceed the sum of the benefit  
7 payments which would have been made but for the viola-  
8 tions of this title or the terms of the plan plus reasonable  
9 prejudgment interest thereon. For purposes of this sub-  
10 section, the terms ‘participant’ and ‘beneficiary’ shall in-  
11 clude any individual who was a participant or beneficiary  
12 at the time of the alleged violation.”

13 **SEC. 12313. CIVIL PENALTY.**

14 (a) IN GENERAL.—Paragraph (1) of section 502(l)  
15 of the Employee Retirement Income Security Act of 1974  
16 (29 U.S.C. 1132(l)) is amended to read as follows:

17 “(1) In the case of—

18 “(A) any breach of fiduciary responsibility  
19 or other violation of title I by any person,

20 “(B) any participation by a party in inter-  
21 est in a transaction prohibited by section 406 or  
22 407, or

23 “(C) any knowing participation in a fidu-  
24 ciary’s breach or violation by any other person,  
25 including any person who is not a fiduciary,

1 the Secretary shall assess a civil penalty against  
2 such fiduciary, party in interest, or other person in  
3 an amount equal to the greater of 20 percent of the  
4 applicable recovery amount or \$1,000.”

5 (b) PENALTIES RELATING TO MONETARY RELIEF.—

6 (1) IN GENERAL.—Section 502(l) of such Act  
7 (29 U.S.C. 1132(l)) is amended by redesignating  
8 paragraphs (3) and (4) as paragraphs (4) and (5)  
9 and by inserting after paragraph (2) the following  
10 new paragraph:

11 “(3)(A) In the case of a final judgment entered  
12 into by a court in an action brought by a partici-  
13 pant, beneficiary, or fiduciary under subsection  
14 (a)(2) or in an action brought under subsection  
15 (a)(3) which requires a person to pay monetary re-  
16 lief (other than benefits payable to participants or  
17 beneficiaries under the plan or attorney’s fees or  
18 costs under subsection (g))—

19 “(i) such persons shall, within 60  
20 days after the judgment becomes final,  
21 provide the Secretary with a copy of the  
22 judgment, and

23 “(ii) the Secretary shall, upon receipt  
24 of the judgment, assess a civil penalty  
25 against such person in an amount equal to

1           the greater of 5 percent of such monetary  
2           relief or \$1,000.

3           “(B) If a person fails to timely provide a copy  
4           of a judgment under subparagraph (A)(i), the Sec-  
5           retary may assess a civil penalty against the person  
6           of up to \$1,000 for each day the failure continues  
7           after the 60th day after the judgment.”

8           (2) CONFORMING AMENDMENTS.—

9           (A) Section 502(l)(4) of such Act (29  
10          U.S.C. 1132(l)(4)), as so redesignated by para-  
11          graph (1), is amended by striking “paragraph  
12          (1)” and inserting “this subsection”.

13          (B) Section 502(l)(4)(B) of such Act (29  
14          U.S.C. 1132(l)(4)(B)), as so redesignated, is  
15          amended by inserting “, participants, or bene-  
16          ficiaries” after “plan”.

17          (C) Section 502(l)(5) of such Act (29  
18          U.S.C. 1132(l)(5)), as so redesignated, is  
19          amended by striking “section 4975” and insert-  
20          ing “section 4971 or 4975”.

21   **SEC. 12314. EFFECTIVE DATE.**

22          The amendments made by this part shall apply to any  
23          legal proceeding pending, or brought, on or after the date  
24          of the enactment of this Act.

1       **CHAPTER 3—PUBLIC HEALTH SERVICE ACT**

2       **SEC. 12321. PROHIBITION ON REDUCTION IN COVERAGE OF**  
3                                   **PEDIATRIC VACCINE.**

4       Part D of subtitle 2 of title XXI of the Public Health  
5       Service Act (42 U.S.C. 300aa–31 et seq.) is amended by  
6       adding at the end thereof the following new section:

7       **“SEC. 2135. PROHIBITION ON REDUCTION IN COVERAGE OF**  
8                                   **PEDIATRIC VACCINE.**

9           “(a) IN GENERAL.—Notwithstanding any other pro-  
10       vision of law, a health insurance policy in effect prior to  
11       May 1, 1993, may not reduce the level of coverage for  
12       the costs of pediatric vaccines below the level of coverage  
13       provided on the date of enactment of this section.

14          “(b) CIVIL MONEY PENALTY.—

15           “(1) IN GENERAL.—An entity that fails to com-  
16       ply with subsection (a) shall be subject, in addition  
17       to any other penalties that may be prescribed by  
18       law, to a civil money penalty of not to exceed \$1,000  
19       for each individual with respect to whom such a fail-  
20       ure occurs.

21           “(2) ENFORCEMENT.—With respect to an en-  
22       tity that offers a health insurance policy in violation  
23       of subsection (a), the provisions of section  
24       353(h)(3), regarding procedures for the imposition  
25       of civil money penalties developed by the Secretary,

1 shall apply in the same manner as such provisions  
 2 apply to penalties or proceedings under section 353.

3 “(c) DEFINITIONS.—As used in this section:

4 “(1) HEALTH INSURANCE POLICY.—The term  
 5 ‘health insurance policy’ has the same meaning given  
 6 the term ‘employee welfare benefit plan’ in section  
 7 3(1) of the Employee Retirement Income Security  
 8 Act of 1974 (29 U.S.C. 1002(1)) and includes any  
 9 other policy or plan which provides coverage for the  
 10 provision of health care services (including a health  
 11 maintenance organization agreement).

12 “(2) PEDIATRIC VACCINES.—The term ‘pedi-  
 13 atric vaccines’ has the same meaning given such  
 14 term in section 2163.”

## 15 **TITLE XIII—VETERANS’** 16 **PROGRAMS**

### 17 **SEC. 13001. PERMANENT EXTENSION OF LIMITATION ON** 18 **PENSION FOR CERTAIN RECIPIENTS OF MED-** 19 **ICAID-COVERED NURSING HOME CARE.**

20 Section 5503(f) of title 38, United States Code, is  
 21 amended by striking out paragraph (7).

### 22 **SEC. 13002. POLICY REGARDING COST-OF-LIVING ADJUST-** 23 **MENT IN COMPENSATION RATES.**

24 The fiscal year 1994 cost-of-living adjustments in the  
 25 rates of and limitations for compensation payable under

1 chapter 11 of title 38, United States Code, and of depend-  
2 ency and indemnity compensation payable under chapter  
3 13 of such title will be no more than a percentage equal  
4 to the percentage by which benefit amounts payable under  
5 title II of the Social Security Act (42 U.S.C. 401 et seq.)  
6 are increased effective December 1, 1993, as a result of  
7 a determination under section 215(i) of such Act (42  
8 U.S.C. 415(i)), with all increased monthly rates and limi-  
9 tations (other than increased rates or limitations equal to  
10 a whole dollar amount) rounded down to the next lower  
11 dollar. The effective date of such adjustments shall not  
12 be earlier than December 4, 1993.

13 **SEC. 13003. REDUCTION IN BASIC PAY AND INCENTIVES OF**  
14 **MONTGOMERY GI BILL PARTICIPANTS.**

15 (a) ACTIVE DUTY.—Section 3011(b) of title 38,  
16 United States Code, is amended—

17 (1) by inserting “(1)” after “(b)”;

18 (2) by designating the second sentence as para-  
19 graph (2); and

20 (3) in paragraph (1), as so designated, by strik-  
21 ing out “shall be reduced by” and all that follows  
22 through the period and inserting in lieu thereof  
23 “shall be reduced by—

24 “(A) in the case of an individual who first en-  
25 ters on active duty before October 1, 1993, \$100 for

1 each of the first 12 months that such individual is  
2 entitled to such pay;

3 “(B) in the case of an individual who first en-  
4 ters on active duty during the fiscal year beginning  
5 on October 1, 1993, \$137 for each of the first 12  
6 months that such individual is entitled to such pay;  
7 and

8 “(C) in the case of an individual who first en-  
9 ters on active duty during any fiscal year beginning  
10 after September 30, 1994, an amount for each of  
11 the first 12 months that such individual is entitled  
12 to such pay that is equal to the amount of the  
13 monthly pay reduction of an individual under this  
14 paragraph during the previous fiscal year increased  
15 by the same percentage, if any, as the percentage by  
16 which monthly rates of educational assistance are in-  
17 creased for such fiscal year under section 3015(g)(3)  
18 of this title.”.

19 (b) SELECTED RESERVE.—Section 3012(c) of such  
20 title is amended—

21 (1) by inserting “(1)” after “(c)”;

22 (2) by designating the second sentence as para-  
23 graph (2); and

24 (3) in paragraph (1), as so designated, by strik-  
25 ing out “shall be reduced by” and all that follows

1 through the period and inserting in lieu thereof  
2 “shall be reduced by—

3 “(A) in the case of an individual who first en-  
4 ters on active duty before October 1, 1993, \$100 for  
5 each of the first 12 months that such individual is  
6 entitled to such pay;

7 “(B) in the case of an individual who first en-  
8 ters on active duty during the fiscal year beginning  
9 on October 1, 1993, \$137 for each of the first 12  
10 months that such individual is entitled to such pay;  
11 and

12 “(C) in the case of an individual who first en-  
13 ters on active duty during any fiscal year beginning  
14 after September 30, 1994, an amount for each of  
15 the first 12 months that such individual is entitled  
16 to such pay that is equal to the amount of the  
17 monthly pay reduction of an individual under this  
18 paragraph during the previous fiscal year increased  
19 by the same percentage, if any, as the percentage by  
20 which monthly rates of educational assistance are in-  
21 creased for such fiscal year under section 3015(g)(3)  
22 of this title.”.

23 (c) ENROLLMENT BEFORE INVOLUNTARY SEPARA-  
24 TION.—Section 3018A(b) of such title is amended by  
25 striking out “\$1,200” and inserting in lieu thereof “an

1 amount equal to 12 times the amount of the monthly pay  
2 reduction determined for the individual in accordance with  
3 section 3011(b)(1) or section 3012(c)(1) of this title. For  
4 the purposes of such determination, the date of the indi-  
5 vidual's election to receive assistance under subsection  
6 (a)(5) shall be considered the date that the individual first  
7 enters on active duty.”.

8 (d) ENROLLMENT BY VOLUNTARY SEPARATION IN-  
9 CENTIVE RECIPIENTS.—Section 3018B(b)(1) of such title  
10 is amended by striking out “\$1,200” and inserting in lieu  
11 thereof “an amount equal to 12 times the amount of the  
12 monthly pay reduction determined for the individual in ac-  
13 cordance with section 3011(b)(1) or section 3012(c)(1) of  
14 this title. For the purposes of such determination, the date  
15 of the individual's election to receive assistance under sub-  
16 section (a)(1)(E) shall be considered the date that the in-  
17 dividual first enters on active duty.”.

18 **SEC. 13004. PERMANENT EXTENSION OF PROCEDURES AP-**  
19 **PLICABLE TO LIQUIDATION SALES UPON DE-**  
20 **FAULT OF HOME LOANS GUARANTEED BY**  
21 **THE DEPARTMENT OF VETERANS AFFAIRS.**

22 (a) INCLUSION OF RESALE LOSSES IN NET-VALUE  
23 CALCULATION.—Paragraph (1)(C) of section 3732(c) of  
24 title 38, United States Code, is amended by inserting “(in-

1 cluding losses sustained on the resale of the property)”  
2 after “resale”.

3 (b) PERMANENT EXTENSION OF AUTHORITY.—Para-  
4 graph (11) of such section is repealed.

5 **SEC. 13005. INCREASE IN CERTAIN LOAN FEES.**

6 (a) FEE INCREASE.—Paragraph (2) of section  
7 3729(a) of title 38, United States Code, is amended—

8 (1) in the matter above subparagraph (A), by  
9 striking out “1.25 percent” and inserting in lieu  
10 thereof “2 percent”;

11 (2) in subparagraph (A), by striking out “one  
12 percent” and inserting in lieu thereof “1 percent”;

13 (3) in subparagraph (B), by striking out “0.75  
14 percent” and inserting in lieu thereof “1.50 per-  
15 cent”;

16 (4) in subparagraph (C), by striking out “0.50  
17 percent” and inserting in lieu thereof “1.25 per-  
18 cent”; and

19 (5) in subparagraph (D)—

20 (i) by striking out “two percent” in clause  
21 (i) and inserting in lieu thereof “2.75 percent”;

22 (ii) by striking out “one percent” in clause  
23 (ii) and inserting in lieu thereof “1 percent”;

1           (iii) by striking out “1.50 percent” in  
2           clause (iii)(I) and inserting in lieu thereof “2.25  
3           percent”; and

4           (iv) by striking out “1.25 percent” in  
5           clause (iii)(II) and inserting in lieu thereof “2  
6           percent”.

7           (b) FEE FOR MANUFACTURED HOMES.—Such para-  
8           graph is further amended—

9           (1) in subparagraph (A), by striking out “or for  
10          any purpose specified in section 3712 of this title  
11          (other than section 3712(a)(1)(F))”;

12          (2) by striking out “and” at the end of sub-  
13          paragraph (D);

14          (3) by striking out the period at the end of sub-  
15          paragraph (E) and inserting in lieu thereof “; and”;  
16          and

17          (4) by adding at the end the following:

18           “(F) in the case of a loan made for any purpose  
19           specified in section 3712 of this title (other than  
20           subsection (a)(1)(F) of such section), the amount of  
21           such fee shall be one percent of the total loan  
22           amount.”.

23          (c) REPEAL OF TEMPORARY INCREASE IN FEES.—  
24          Such section is further amended—

1 (1) in paragraph (2), by striking out “Except  
2 as provided in paragraph (6) of this subsection, the”  
3 in the matter above subparagraph (A) and inserting  
4 in lieu thereof “The”; and

5 (2) by striking out paragraph (6).

6 **SEC. 13006. PERMANENT EXTENSION OF MEDICAL CARE**  
7 **COST RECOVERY AUTHORITY.**

8 Section 1729(a)(2)(E) of title 38, United States  
9 Code, is amended by striking out “before August 1,  
10 1994,”.

11 **SEC. 13007. PERMANENT EXTENSION OF REQUIREMENT**  
12 **THAT CERTAIN VETERANS MAKE**  
13 **COPAYMENTS FOR HEALTH-CARE SERVICES.**

14 (a) **MEDICATION COPAYMENT REQUIREMENT.**—Sec-  
15 tion 1722A of title 38, United States Code, is amended  
16 by striking out subsection (c).

17 (b) **HEALTH-CARE CATEGORIES AND**  
18 **COPAYMENTS.**—Section 8013 of the Omnibus Budget  
19 Reconciliation Act of 1990 (38 U.S.C. 1710 note) is  
20 amended by striking out subsection (e).

21 **SEC. 13008. PERMANENT AUTHORITY TO VERIFY INCOME**  
22 **ELIGIBILITY FOR NEED-BASED BENEFITS.**

23 (a) **AUTHORITY FOR SECRETARY OF VETERANS AF-**  
24 **FAIRS TO OBTAIN INFORMATION.**—Section 5317 of title

1 38, United States Code, is amended by striking out sub-  
2 section (g).

3 (b) AUTHORITY FOR SECRETARY OF TREASURY TO  
4 PROVIDE INFORMATION.—Section 6103(l)(7)(D) of the  
5 Internal Revenue Code of 1986 is amended by striking out  
6 the last sentence.

S 1134 PCS—2

S 1134 PCS—3

S 1134 PCS—4

S 1134 PCS—5

S 1134 PCS—6

S 1134 PCS—7

S 1134 PCS—8

S 1134 PCS—9

S 1134 PCS—10

S 1134 PCS—11

S 1134 PCS—12

S 1134 PCS—13

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