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

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U.S. GOVERNMENT
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103D CONGRESS
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To provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994.

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.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Omnibus Budget Reconciliation Act of 1993''.

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

TITLE I—COMMITTEE ON AGRICULTURE, 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

TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SEC. 1001. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Agricultural Reconciliation Act of 1993''.

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

Sec. 1001. Short title and table of contents.

Subtitle A—Commodity Programs

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

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.

Subtitle A—Commodity Programs

SEC. 1101. WHEAT PROGRAM.

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

(1) in the subparagraph heading, by striking ''0/92 PROGRAM'' and inserting ''0/85 PROGRAM''; and

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

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

gible to receive deficiency payments as provided in clause (ii) if an acreage limitation program under subsection (e) is in effect for the crop and—

''(I)(aa) the producers have been determined by the Secretary (in accordance with section 503(c)) to be prevented from planting the crop or have incurred a reduced yield for the crop (due to a natural disaster); and

''(bb) the producers elect to devote a portion of the maximum payment acres for wheat (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the wheat acreage, to conservation uses; or

''(II) the producers elect to devote a portion of the maximum payment acres for wheat (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the wheat acreage, to alternative crops as provided in subparagraph (F).''.

SEC. 1102. FEED GRAIN PROGRAM.

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

(1) in the subparagraph heading, by striking ''0/92 PROGRAM'' and inserting ''0/85 PROGRAM''; and

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

''(vii) EXCEPTIONS TO 0/85.—In the case of each of the 1994 and 1995 crops of feed grains, producers on a farm shall be eligible to receive deficiency payments as provided in clause (ii) if an acreage limitation program under subsection (e) is in effect for the crop and—

''(I)(aa) the producers have been determined by the Secretary (in accordance with section 503(c)) to be prevented from planting the crop or have incurred a reduced yield for the crop (due to a natural disaster); and

''(bb) the producers elect to devote a portion of the maximum payment acres for feed grains (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the feed grain acreage, to conservation uses; or

''(II) the producers elect to devote a portion of the maximum payment acres for feed grains (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the feed grain acreage, to alternative crops as provided in subparagraph (F).''.

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

SEC. 1103. UPLAND COTTON PROGRAM.

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

(1) in the subparagraph heading, by striking ''50/92 PROGRAM'' and inserting ''50/85 PROGRAM''; and

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

(A) by striking ''(v) PREVENTED PLANTING.—If'' and inserting the following:

''(v) PREVENTED PLANTING AND REDUCED YIELDS.—

''(I) 1991 THROUGH 1993 CROPS.—In the case of each of the 1991 through 1993 crops of upland cotton, if''; and

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

''(II) 1994 AND 1995 CROPS.—In the case of each of the 1994 and 1995 crops of upland cotton, producers on a farm shall be eligible to receive deficiency payments as provided in clause (iii) if an acreage limitation program

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

''(aa) the producers have been determined by the Secretary (in accordance with section 503(c)) to be prevented from planting the crop or have incurred a reduced yield for the crop (due to a natural disaster) and the producers elect to devote a portion of the maximum payment acres for upland cotton (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the upland cotton acreage, to conservation uses; or

''(bb) the producers elect to devote a portion of the maximum payment acres for upland cotton (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the upland cotton acreage, to alternative crops as provided in subparagraph (E).''.

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

SEC. 1104. RICE PROGRAM.

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

(1) in the subparagraph heading, by striking ''50/92 PROGRAM'' and inserting ''50/85 PROGRAM''; and

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

(A) by striking ''(v) PREVENTED PLANTING.—If'' and inserting the following:

''(v) PREVENTED PLANTING AND REDUCED YIELDS.—

''(I) 1991 THROUGH 1993 CROPS.—In the case of each of the 1991 through 1993 crops of rice, if''; and

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

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

''(aa) the producers have been determined by the Secretary (in accordance with section 503(c)) to be prevented from planting the crop or have incurred a reduced yield for the crop (due to a natural disaster) and the producers elect to devote a portion of the maximum payment acres for rice (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the rice acreage, to conservation uses; or

''(bb) the producers elect to devote a portion of the maximum payment acres for rice (as cal-

culated under subparagraph (C)(ii)) equal to more than 8 percent of the rice acreage, to alternative crops as provided in subparagraph (E).''.

SEC. 1105. DAIRY PROGRAM.

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

(1) in subsection (c)(3)—

(A) in the first sentence of subparagraph (A), by striking ''The Secretary'' and inserting ''Subject to subparagraph (B), the Secretary'';

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

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

''(B) GUIDELINES.—In the case of purchases of butter and nonfat dry milk that are made by the Secretary under this section on or after the date of enactment of this clause, in allocating the rate of price support between the purchase prices of butter and nonfat dry milk under this paragraph, the Secretary may not—

''(i) offer to purchase butter for more than $0.65 per pound; or

''(ii) offer to purchase nonfat dry milk for less than $1.034 per pound.''; and

(2) in subsection (h)(2)—

(A) by striking ''and'' at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ''; and''; and

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

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

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

(1) by redesignating subsection (k) as subsection (l); and

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

''(k) SALE, MARKETING, OR USE OF BOVINE GROWTH HORMONE.—

''(1) DEFINITION OF BOVINE GROWTH HORMONE.—As used in this subsection, the term 'bovine growth hormone' means a synthetic growth hormone

produced through the process of recombinant DNA techniques that is intended for use in bovine animals.

''(2) PROHIBITION ON SALE, MARKETING, OR USE.—During the period beginning on the date of enactment of this paragraph and ending on September 30, 1994, it shall be unlawful for a person to sell, market, or use bovine growth hormone for commercial agricultural purposes.

''(3) ENFORCEMENT.—Not later than 30 days after the date of enactment of this paragraph, the Secretary shall issue regulations to provide for the enforcement of the prohibition contained in paragraph (2).''.

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

''(4) EXTENSION.—The Secretary shall have the authority to continue the prohibition on the commercial use of bovine growth hormone beyond the period referred to in paragraph (2) until the President certifies to Congress that other major milk and dairy exporting countries have approved the commercial use of bovine growth hormone.''.

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

(1) in the section heading, by striking ''**1995**'' and inserting ''**1996**'';

(2) by striking ''1995'' each place it appears (other than in subsection (h)(2)(B)) and inserting ''1996''; and

(3) in subsection (g)(2), by striking ''1994'' and inserting ''1995''.

SEC. 1106. TOBACCO PROGRAM.

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

"SEC. 320C. DOMESTIC MARKETING ASSESSMENT.

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

''(b) PENALTIES.—

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

endar year at least 75 percent of tobacco produced in the United States, or to comply with subsection (a), shall be subject to the requirements of subsections (c), (d), and (e).

''(2) FAILURE TO CERTIFY.—For purposes of this section, if a manufacturer fails to comply with subsection (a), the manufacturer shall be presumed to have used only imported tobacco in the manufacture of cigarettes produced by the manufacturer.

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

''(c) DOMESTIC MARKETING ASSESSMENT.—

''(1) IN GENERAL.—A domestic manufacturer of cigarettes described in subsection (b) shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in accordance with this subsection.

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

''(A) the quantity by which the quantity of imported tobacco used by the manufacturer to produce cigarettes during a preceding calendar

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

''(B) the difference between—

''(i) ½ of the sum of—

''(I) the average price per pound received by domestic producers for Burley tobacco during the preceding calendar year; and

''(II) the average price per pound received by domestic producers for Flue-cured tobacco during the preceding calendar year; and

''(ii) the average price per pound of unmanufactured imported tobacco during the preceding calendar year, as determined by the Secretary.

''(3) COLLECTION.—An assessment imposed under this subsection shall be—

''(A) collected by this Secretary and transmitted to the Commodity Credit Corporation; and

''(B) enforced in the same manner as provided in section 320B.

''(d) PURCHASE OF BURLEY TOBACCO.—

''(1) IN GENERAL.—A domestic manufacturer of cigarettes described in subsection (b) shall purchase from the inventories of the producer-owned cooperative marketing associations for Burley tobacco described in section 320B(a)(2), at the applicable list price published by the association, the quantity of tobacco described in paragraph (2).

''(2) QUANTITY.—Subject to paragraph (3), the quantity of Burley tobacco required to be purchased by a manufacturer during a calendar year under this subsection shall equal ½ of the quantity of imported tobacco used by the manufacturer to produce cigarettes during the preceding calendar year that exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year.

''(3) LIMITATION.—If the total quantity of Burley tobacco required to be purchased by all manufacturers under paragraph (2) would reduce the inventories of the producer-owned cooperative marketing associations for Burley tobacco to less than the reserve stock level for Burley tobacco, the Secretary shall reduce the quantity of tobacco required to be purchased by manufacturers under paragraph (2),

on a pro rata basis, to ensure that the inventories will not be less than the reserve stock level for Burley tobacco.

''(4) NONCOMPLIANCE.—If a manufacturer fails to purchase from the inventories of the producer-owned cooperative marketing associations the quantity of Burley tobacco required under this subsection, the manufacturer shall be subject to a penalty of 75 percent of the average market price (calculated to the nearest whole cent) for Burley tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

''(5) PURCHASE REQUIREMENTS.—Tobacco purchased by a manufacturer under this subsection shall not be included in determining the quantity of tobacco purchased by the manufacturer under section 320B.

''(e) PURCHASE OF FLUE-CURED TOBACCO.—

''(1) IN GENERAL.—A domestic manufacturer of cigarettes described in subsection (b) shall purchase from the inventories of the producer-owned cooperative marketing association for Flue-cured tobacco described in section 320B(a)(2), at the applicable list price published by the association, the quantity of tobacco described in paragraph (2).

"(2) QUANTITY.—Subject to paragraph (3), the quantity of Flue-cured tobacco required to be purchased by a manufacturer during a calendar year under this subsection shall equal ½ of the quantity of imported tobacco used by the manufacturer to produce cigarettes during the preceding calendar year that exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year.

"(3) LIMITATION.—If the total quantity of Flue-cured tobacco required to be purchased by all manufacturers under paragraph (2) would reduce the inventories of the producer-owned cooperative marketing association for Flue-cured tobacco to less than the reserve stock level for Flue-cured tobacco, the Secretary shall reduce the quantity of tobacco required to be purchased by manufacturers under paragraph (2), on a pro rata basis, to ensure that the inventories will not be less than the reserve stock level for Flue-cured tobacco.

"(4) NONCOMPLIANCE.—If a manufacturer fails to purchase from the inventories of the producer-owned cooperative marketing association the quantity of Flue-cured tobacco required under this subsection, the manufacturer shall be subject to a pen-

alty of 75 percent of the average market price (calculated to the nearest whole cent) for Flue-cured tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

''(5) PURCHASE REQUIREMENTS.—Tobacco purchased by a manufacturer under this subsection shall not be included in determining the quantity of tobacco purchased by the manufacturer under section 320B.

''(f) ENFORCEMENT.—The Secretary may enforce this section in the courts of the United States.''.

(b) BUDGET DEFICIT ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended—

(A) in subsection (g)(1), by striking ''1995'' and inserting ''1998''; and

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

''(h)(1) Effective only for each of the 1994 through 1998 crops of tobacco, an importer of tobacco that is produced outside the United States shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to the product obtained by multiplying—

''(A) the number of pounds of tobacco that is imported by the importer; by

''(B) the sum of—

''(i) the per pound marketing assessment imposed on purchasers of domestic Burley tobacco pursuant to subsection (g); and

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

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

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

''(B) If the importer fails to comply with subparagraph (A), the importer shall be liable for a marketing penalty at a rate equal to 37.5 percent of the sum of the average market price (calculated to the nearest whole cent) of Flue-cured and Burley tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

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

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

''(D) Any assessment provided for under this subsection shall be assessed by the Secretary after notice and opportunity for a hearing.

''(4)(A) Any person against whom a penalty is assessed under this subsection may obtain review of the penalty in an appropriate district court of the United States by filing a civil action in the court not later than 30 days after the penalty is imposed.

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

''(5) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under this subsection.

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

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

(A) in subsection (c), by inserting ''and importers'' after ''purchasers'';

(B) in subsection (d)(1)(A)—

(i) by striking ''and'' at the end of clause (i); and

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

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

''(I) the number of pounds of tobacco that is imported by the importer; by

''(II) the sum of the amount of per pound producer contributions and purchaser assessments that are payable by domestic producers and purchasers of Flue-cured and Burley tobacco under clauses (i) and (ii); and'';

(C) in subsection (d)(2)—

(i) by inserting ''or importer'' after ''or purchaser'';

(ii) by striking ''and'' at the end of subparagraph (B);

(iii) by inserting ''and'' at the end of subparagraph (C); and

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

''(D) if the tobacco involved is imported by an importer, from the importer.''; and

(D) in subsection (h)(1)—

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

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

''(B) Each importer who fails to pay to the association an assessment as required by subsection (d)(2) at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the respective kind of tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.''.

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

(A) in subsection (c)(1), by striking ''producers and purchasers'' and inserting ''producers, purchasers, and importers'';

(B) in subsection (d)(1)—

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

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

''(C) The Secretary shall also require (in lieu of any requirement under section 106A(d)(1)) that each importer of Flue-cured and Burley tobacco shall pay to the Corporation, for deposit in the Account of the association, an assessment, as determined under paragraph (2) and collected under paragraph (3), with respect to purchases of all such kind of tobacco imported by the importer.'';

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

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

''(i) the number of pounds of tobacco that is imported by the importer; by

''(ii) the sum of the amount of per pound producer and purchaser assessments that are payable

by domestic producers and purchasers of the respective kind of tobacco under this paragraph.''; (D) in subsection (d)(3), by adding at the end the following new subparagraph:

''(D) If Flue-cured or Burley tobacco is imported by an importer, any importer assessment required by subsection (d) shall be collected from the importer.''; and

(E) in subsection (j)(1)—

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

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

''(B) Each importer who fails to pay to the Corporation an assessment as required by subsection (d) at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the respective kind of tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.''.

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

inserting before the period at the end the following: ‘‘, and which shall be comparable to fees and charges fixed and collected for services provided in connection with tobacco produced in the United States’’.

(d) EXTENSION OF QUOTA REDUCTION FLOORS.—

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

(A) by striking ‘‘1993’’ and inserting ‘‘1996’’; and

(B) by inserting before the period at the end the following: ‘‘, except that, in the case of each of the 1995 and 1996 crops of Burley tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing associations for Burley tobacco described in section 320B(a)(2) to exceed 150 percent of the reserve stock level for Burley tobacco’’.

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

(A) by striking ''1993'' and inserting ''1996''; and

(B) by inserting before the period at the end the following: '', except that, in the case of each of the 1995 and 1996 crops of Flue-cured tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing association for Flue-cured tobacco described in section 320B(a)(2) to exceed 150 percent of the reserve stock level for Flue-cured tobacco''.

SEC. 1107. SUGAR PROGRAM.

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

(1) in paragraph (1), by striking ''equal to'' and all that follows through the period and inserting the following: ''equal to—

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

to a refinery for further processing or marketing); and

''(B) in the case of marketings during each of fiscal years 1995 and 1996, .198 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).''; and

(2) in paragraph (2), by striking ''equal to'' and all that follows through the period and inserting the following: ''equal to—

''(A) in the case of marketings during each of fiscal years 1992 through 1994, .193 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

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

SEC. 1108. OILSEEDS PROGRAM.

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

(1) in paragraph (1), by inserting after ''$5.02 per bushel'' the following: ''for each of the 1991 through 1993 crops and $4.92 per bushel for each of the 1994 and 1995 crops''; and

(2) in paragraph (2), by inserting after ''$0.089 per pound'' the following: ''for each of the 1991 through 1993 crops and $0.087 per pound for each of the 1994 and 1995 crops''.

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

''(1) in the case of each of the 1991 through 1993 crops, on the last day of the 9th month following the month the application for the loan is made; and

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

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

''(3) APPLICABILITY.—This subsection shall apply only to each of the 1991 through 1993 crops of oilseeds.''.

SEC. 1109. PEANUT PROGRAM.

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

(1) in paragraph (1), by inserting after ''1 percent'' both places it appears the following: ''for each of the 1991 through 1993 crops, and 1.1 percent for each of the 1994 and 1995 crops,''; and

(2) in paragraph (2)(A)—

(A) in clause (i), by striking ''½ percent'' and inserting ''.5 percent for each of the 1991 through 1993 crops, and .6 percent for each of the 1994 and 1995 crops,''; and

(B) in clause (ii), by striking ''½ percent'' and inserting ''.5 percent''.

SEC. 1110. HONEY PROGRAM.

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

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

''(2) 47 cents per pound for each of the 1994 through 1997 crops.''.

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

(1) by striking ''and'' at the end of subparagraph (C); and

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

''(D) $125,000 in the 1994 crop year;

''(E) $100,000 in the 1995 crop year;

''(F) $75,000 in the 1996 crop year; and

''(G) $50,000 in the 1997 crop year.''.

(c) CONFORMING AMENDMENTS.—Section 207 of such Act (as amended by subsection (b)) is further amended by striking ''1995'' each place it appears (other than in subsection (e)(1)(E)) and inserting ''1997''.

SEC. 1111. WOOL AND MOHAIR PROGRAM.

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

(1) by striking ''and'' at the end of subparagraph (C); and

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

''(D) $125,000 for the 1994 marketing year;

''(E) $100,000 for the 1995 marketing year;

''(F) $75,000 for the 1996 marketing year; and

''(G) $50,000 for the 1997 marketing year.''.

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

''(3) Effective only for each of the 1994 through 1997 marketing years, the support price for shorn wool shall not exceed the support price for shorn wool for the 1993 marketing year.''.

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

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

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

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

Subtitle B—Restructuring of Loan Programs

SEC. 1201. ELECTRIC AND TELEPHONE LOAN PROGRAMS.

(a) LOAN PROGRAMS UNDER THE RURAL ELECTRIFICATION ACT OF 1936.—

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

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

(B) by redesignating subsection (c) as subsection (b); and

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

''(c) INSURED ELECTRIC LOANS.—

''(1) HARDSHIP LOANS.—

"(A) IN GENERAL.—The Administrator shall make insured electric loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year to any applicant for a loan who meets each of the following requirements:

"(i) The average revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

"(ii) The average residential revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average residential revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

"(iii) The average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median

household income of the households in the State.

''(B) SEVERE HARDSHIP LOANS.—In addition to hardship loans that are made under subparagraph (A), the Administrator may make an insured electric loan at an interest rate of 5 percent per year to an applicant for a loan if, in the sole discretion of the Administrator, the applicant has experienced a severe hardship.

''(C) LIMITATION.—The Administrator may not make a loan under this paragraph to an applicant for the purpose of furnishing or improving electric service to a consumer located in an urban area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

''(2) MUNICIPAL RATE LOANS.—

''(A) IN GENERAL.—The Administrator shall make insured electric loans, to the extent of qualifying applications for the loans, at the interest rate described in subparagraph (B) for the term or terms selected by the applicant pursuant to subparagraph (C).

''(B) INTEREST RATE.—

"(i) IN GENERAL.—Subject to clause (ii), the interest rate described in this subparagraph on a loan to a qualifying applicant shall be—

"(I) the interest rate determined by the Administrator to be equal to the current market yield on outstanding municipal obligations with remaining periods to maturity similar to the term selected by the applicant pursuant to subparagraph (C), but not greater than the rate determined under section 307(a)(3)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)(A)) that is based on the current market yield on outstanding municipal obligations; plus

"(II) if the applicant for the loan makes an election pursuant to subparagraph (D) to include in the loan agreement the right of the applicant to prepay the loan, a rate equal to the amount by which—

''(aa) the interest rate on commercial loans for a similar period that afford the borrower such a right; exceeds

''(bb) the interest rate on commercial loans for the period that do not afford the borrower such a right.

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

''(I) the average number of consumers per mile of line of the total electric system of the applicant is less than 5.50; or

''(II)(aa) the average revenue per kilowatt-hour sold by the applicant is more than the average revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service; and

''(bb) the average per capita income of the residents receiving electric service from the applicant is less than

the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

''(iii) EXCEPTION.—Clause (ii) shall not apply to a loan to be made to an applicant for the purpose of furnishing or improving electric service to consumers located in an urban area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

''(C) LOAN TERM.—

''(i) IN GENERAL.—Subject to clause (ii), the applicant for a loan under this paragraph may select the term for which an interest rate shall be determined pursuant to subparagraph (B), and, at the end of the term (and any succeeding term selected by the applicant under this subpara-

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

''(ii) MAXIMUM TERM.—

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

''(II) ADMINISTRATOR.—The Administrator may prohibit an applicant from selecting a term that would result in the total term of the loan being greater than the expected useful life of the assets being financed.

''(D) CALL PROVISION.—The Administrator shall offer any applicant for a loan under this paragraph the option to include in the loan agreement the right of the applicant to prepay the loan on terms consistent with similar provisions of commercial loans.

''(3) OTHER SOURCE OF CREDIT NOT REQUIRED IN CERTAIN CASES.—The Administrator may not require any applicant for a loan made under this subsection who is eligible for a loan under paragraph (1) to obtain a loan from another source

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

''(d) INSURED TELEPHONE LOANS.—

''(1) HARDSHIP LOANS.—

''(A) IN GENERAL.—The Administrator shall make insured telephone loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year, to any applicant who meets each of the following requirements:

''(i) The average number of subscribers per mile of line in the proposed service area of the applicant is not more than 4.

''(ii) The applicant is capable of producing net income or margins, after interest payments on the loan applied for, of not less than 100 percent (but not more than 300 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

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

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

''(B) AUTHORITY TO WAIVE TIER REQUIREMENT.—The Administrator may waive the requirement of subparagraph (A)(ii) in any case in which the Administrator determines (and sets forth the reasons for the waiver in writing) that the requirement would prevent emergency restoration of the telephone system of the applicant or result in severe hardship to the applicant.

''(C) EFFECT OF LACK OF FUNDS.—On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan under title IV.

''(2) COST-OF-MONEY LOANS.—

''(A) IN GENERAL.—The Administrator may make insured telephone loans for the acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of

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

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

''(ii) The applicant is capable of producing net income or margins, before interest payments on the loan applied for, of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

''(iii) The Administrator has approved a telecommunications modernization plan for the State under paragraph (3), and, if the plan was developed by telephone borrowers under this title, the applicant is a participant in the plan.

''(B) CALL PROVISION.—The Administrator shall offer any applicant for a loan under this paragraph the option to include in the loan

agreement the right of the applicant to prepay the loan on terms consistent with similar provisions of commercial loans.

''(C) CONCURRENT LOAN AUTHORITY.—On request of any applicant for a loan under this paragraph during any fiscal year, the Administrator shall—

''(i) consider the application to be for a loan under this paragraph and a loan under section 408; and

''(ii) if the applicant is eligible for a loan, make a loan to the applicant under this paragraph in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this paragraph and under section 408, as the amount made available for loans under this paragraph for the fiscal year bears to the total amount made available for loans under this paragraph and under section 408 for the fiscal year.

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

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

''(3) STATE TELECOMMUNICATIONS MODERNIZATION PLANS.—

''(A) APPROVAL.—If, not later than 180 days after final regulations are promulgated to carry out this paragraph, the public utility commission of any State develops a telecommunications modernization plan that meets the requirements of subparagraph (B), the Administrator shall approve the plan for the State. If a State does not develop a plan in accordance with the requirements of the preceding sentence, the Administrator shall approve any telecommunications modernization plan for the State that meets the requirements that is developed by a majority of the borrowers of telephone loans made under this title who are located in the State.

''(B) REQUIREMENTS.—For purposes of subparagraph (A), a telecommunications modernization plan must, at a minimum, meet the following objectives:

''(i) The plan must provide for the elimination of party line service.

''(ii) The plan must provide for the availability of telecommunications services for improved business, educational, and medical services.

''(iii) The plan must encourage and improve computer networks and information highways for subscribers in rural areas.

''(iv) The plan must provide for—

''(I) subscribers in rural areas to be able to receive through telephone lines—

''(aa) multiple voices;

''(bb) video images; and

''(cc) data at a rate of at least 1,000,000 bits of information per second; and

''(II) the proper routing of information to subscribers.

''(v) The plan must provide for uniform deployment schedules to ensure that advanced services are deployed at the same time in rural and nonrural areas.

''(vi) The plan must provide for such additional requirements for service standards as may be required by the Administrator.

''(C) FINALITY OF APPROVAL.—

''(i) IN GENERAL.—A telecommunications modernization plan approved under subparagraph (A) may not subsequently be disapproved. Notwithstanding subsection (c)(1)(A)(iii), subsection (c)(2)(A)(iii), and section 408(b)(4)(C), the Administrator and the Governor of the telephone bank may make a loan to a borrower serving a State that does not have a telecommunication modernization plan approved by the Administrator if the loan is made less than 1 year after the Administrator has adopted final regulations implementing subsection (c)(3).''.

(2) RURAL TELEPHONE BANK LOAN PROGRAM.—Section 408 of such Act (7 U.S.C. 948) is amended—

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

chase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service,''; and

(B) in subsection (b)—

(i) by striking paragraph (4) and inserting the following new paragraph:

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

''(A) The average number of subscribers per mile of line in the service area of the applicant is not more than 15.

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

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

applicant is located, and, if the plan was developed by telephone borrowers under title III, the applicant is a participant in the plan.'';

(ii) in paragraph (8)—

(I) by inserting ''(A)'' after ''(8)'';

(II) by striking ''if such prepayment is not made later than September 30, 1988'' and inserting ''except for any prepayment penalty provided for in a loan agreement entered into before the date of enactment of the Omnibus Budget Reconciliation Act of 1993''; and

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

''(B) If a borrower prepays part or all of a loan made under this section, then, notwithstanding section 407(b), the Governor of the telephone bank shall use the full amount of the prepayment to repay obligations of the telephone bank issued pursuant to section 407(b) before October 1, 1991, to the extent any such obligations are outstanding.''; and

(iii) by adding at the end the following new paragraphs:

''(9) On request of any applicant for a loan under this section during any fiscal year, the Governor of the telephone bank shall—

''(A) consider the application to be for a loan under this section and a loan under section 305(d)(2); and

''(B) if the applicant is eligible for a loan, make a loan to the applicant under this section in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this section and under section 305(d)(2), as the amount made available for loans under this section for the fiscal year bears to the total amount made available for loans under this section and under section 305(d)(2) for the fiscal year.

''(10) On request of any applicant who is eligible for a loan under this section for which funds are not available, the applicant shall be considered to have applied for a loan under section 305(d)(2).''.

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

"SEC. 314. LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.

''(a) DEFINITION OF ADJUSTMENT PERCENTAGE.—As used in this section, the term 'adjustment percentage' means, with respect to a fiscal year, the percentage (if any) by which—

''(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 1-year period ending on July 31 of the immediately preceding fiscal year; exceeds

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

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

''(1) ELECTRIC HARDSHIP LOANS.—For loans under section 305(c)(1)—

''(A) for fiscal year 1994, $125,000,000; and

''(B) for each of fiscal years 1995 through 1998, $125,000,000, increased by the adjustment percentage for the fiscal year.

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

"(A) for fiscal year 1994, $600,000,000; and

"(B) for each of fiscal years 1995 through 1998, $600,000,000, increased by the adjustment percentage for the fiscal year.

"(3) TELEPHONE HARDSHIP LOANS.—For loans under section 305(d)(1)—

"(A) for fiscal year 1994, $125,000,000; and

"(B) for each of fiscal years 1995 through 1998, $125,000,000, increased by the adjustment percentage for the fiscal year.

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

"(A) for fiscal year 1994, $198,000,000; and

"(B) for each of fiscal years 1995 through 1998, $198,000,000, increased by the adjustment percentage for the fiscal year.

"(c) FUNDING LEVELS.—The Administrator shall make insured loans under this title for the purposes, in the amounts, and for the periods of time specified in subsection (b), as provided in advance in appropriations Acts.

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

(4) MISCELLANEOUS AMENDMENTS.—

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

(i) by inserting "(a)" before "The Administrator";

(ii) by striking "telephone service in rural areas, as hereinafter provided;" and inserting "electric and telephone service in rural areas, as provided in this Act, and for the purpose of assisting electric borrowers to implement demand side management and energy conservation programs;"; and

(iii) by adding at the end the following new subsection:

"(b) Not later than January 1, 1994, the Administrator shall issue interim regulations to implement the authority contained in subsection (a) to make loans for the purpose of assisting electric borrowers to implement demand side management and energy conservation programs. If the regulations are not issued by January 1, 1994, the Administrator shall consider any demand side

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

(B) Section 4 of such Act (7 U.S.C. 904) is amended by inserting after ''central station service'' the following: ''and for the furnishing and improving of electric service to persons in rural areas, including by assisting electric borrowers to implement demand side management and energy conservation programs''.

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

(i) by inserting '', except as provided in section 203(b),'' before ''shall be deemed to mean any area''; and

(ii) by striking ''city, village, or borough having a population in excess of fifteen hundred inhabitants'' and inserting ''urban area, as defined by the Bureau of the Census''.

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

(E) Section 305 of such Act (7 U.S.C. 935) (as amended by subsection (a)(1)) is further amended—

(i) by striking ''SEC. 305. INSURED LOANS; INTEREST RATES AND LENDING LEVELS.—(a) The'' and inserting the following:

''SEC. 305. INSURED LOANS; INTEREST RATES AND LENDING LEVELS.

''(a) IN GENERAL.—The''; and

(ii) in subsection (b), by striking ''(b) Loans'' and inserting ''(b) INSURED LOANS.—Loans''.

(F) Section 307 of such Act (7 U.S.C. 937) is amended by adding at the end the following new sentence: ''The Administrator may not request any applicant for an electric loan under this Act to apply for and accept a loan in an amount exceeding 30 percent of the credit needs of the applicant.''.

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

''(i) The Governor of the telephone bank may invest in obligations of the United States the amounts in the account in the Treasury of the United States numbered 12X8139 (known as the 'RTB Equity Fund').''.

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

(i) by inserting ''(a) NO CONSIDERATION OF BORROWER'S LEVEL OF GENERAL FUNDS.—'' before ''The Administrator''; and

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

''(b) NO LOAN ORIGINATION FEES.—The Administrator and the Governor of the telephone bank may not charge any fee or charge not expressly provided in this Act in connection with any loan made or guaranteed under this Act.

''(c) CONSULTANTS.—

''(1) IN GENERAL.—To facilitate timely action on applications by borrowers for financial assistance under this Act and for approvals required of the agency pursuant to the terms of outstanding loan or security instruments or otherwise, the Administrator may use consultants funded by the borrower, paid for out of the general funds of the borrower, for financial, legal, engineering, and other technical advice and services in connection with the review of the application by the Rural Electrification Administration.

''(2) CONFLICTS OF INTEREST.—The Administrator shall establish procedures for the selection and the provision of technical services by consultants to ensure that the consultants have no financial or other potential conflicts of interest in the outcome of the application of the borrower.

''(3) PAYMENT OF COSTS.—The Administrator may not, without the consent of the borrower, require, as a condition of processing an application for approval, that the borrower agree to pay the costs, fees, and expenses of consultants hired to provide technical or advisory services to the Administrator.

''(4) CONTRACTS, GRANTS, AND AGREEMENTS.—The Administrator may enter into such contracts, grants, or cooperative agreements as are necessary to carry out this section without regard to any requirement for competition, section 3709 of the Revised Statutes (41 U.S.C. 5) and section 3324 of title 31, United States Code.

''(5) USE OF CONSULTANTS.—Nothing in this subsection shall limit the authority of the Administrator to retain the services of consultants from funds made available to the Administrator or otherwise.''.

(I) Title III of such Act is amended by inserting after section 306B (7 U.S.C. 936b) the following new sections:

"SEC. 306C. ELIGIBILITY OF DISTRIBUTION BORROWERS FOR LOANS, LOAN GUARANTEES, AND LIEN ACCOMMODATIONS.

''For the purpose of determining the eligibility of a distribution borrower not in default on the repayment of a loan made or guaranteed under this Act for a loan, loan guarantee, or lien accommodation under this title, a default by a borrower from which the distribution borrower purchases wholesale power shall not—

''(1) be considered a default by the distribution borrower;

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

''(3) be the cause, directly or indirectly, of imposing any requirement or restriction on the borrower as a condition of the assistance, except such requirements or restrictions as are necessary to implement a debt restructuring agreed on by the power supply borrower and the Government.

"SEC. 306D. ADMINISTRATIVE PROHIBITIONS APPLICABLE TO ELECTRIC BORROWERS.

''The Administrator may not require prior approval of, impose any requirement, restriction, or prohibition with respect to the operations of, or deny or delay the granting of a lien accommodation to, any electric borrower under this Act whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator.''.

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

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

''(g) RURAL ECONOMIC DEVELOPMENT.—

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

"(2) PARTICIPATION.—The Administrator of the Rural Development Administration shall encourage and facilitate the full participation of borrowers referred to in paragraph (1) in programs administered by the Rural Development Administration.".

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

(1) the Administrator of the Rural Electrification Administration in the case of amendments made by this section to programs administered by the Administrator; and

(2) the Administrator of the Rural Development Administration in the case of amendments made by this section to programs administered by the Administrator.

Subtitle C—Food Stamp Program

SEC. 1301. UNIFORM REIMBURSEMENT RATES.

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

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

(A) by striking ''and (5)'' and inserting ''(5)'';

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

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

(2) in subsection (g)—

(A) by striking ''an amount equal to 63 percent effective on October 1, 1991, of'' and inserting ''the amount authorized under subsection (a)(6) for''; and

(B) by striking ''automatic'' and inserting ''automated'';

(3) by striking subsection (j); and

(4) by redesignating subsection (k) as subsection (j).

(b) EFFECTIVE DATE.—

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

(2) BIENNIAL LEGISLATURES.—In the case of a State whose legislature meets biennially, and does not have a regular session scheduled in calendar year 1994, and that demonstrates to the satisfaction of the Secretary of Agriculture that there is no mechanism, under the constitution and laws of the State, for appropriating the additional funds required by the amendments made by this section before the next such regular legislative session, the Secretary may delay the effective date of all or part of the amendments made by subsection (a) until the beginning date of a calendar quarter that is not later than the first calendar quarter beginning after the close of the first regular session of the State legislature after the date of enactment of this Act.

Subtitle D—Agricultural Trade

SEC. 1401. MARKET PROMOTION PROGRAM.

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

(1) in paragraph (1)—

(A) by striking ''1995'' and inserting ''1993''; and

(B) by striking ''and'' at the end;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

''(2) in addition to any funds that may be specifically appropriated to implement a market development program, for each of fiscal years 1994 and 1995, of the funds of, or an equal value of commodities owned by, the Commodity Credit Corporation—

''(A) not less than $33,000,000 for—

''(i) branded promotion activities involving small-sized commercial entities and medium-sized commercial entities that are beginning exporters; and

''(ii) activities other than branded promotion activities that only benefit small-

sized commercial entities and medium-sized commercial entities, or (as determined by the Secretary) small-sized agricultural producers and medium-sized agricultural producers; and

''(B) in addition to funding specified in subparagraph (A), not less than $77,000,000 for program activities by any eligible trade organization, including organizations specified under subparagraph (A); and''.

(b) DEFINITIONS.—Section 102 of such Act (7 U.S.C. 5602) is amended by adding at the end the following new paragraph:

''(9) COMMERCIAL ENTITY.—

''(A) IN GENERAL.—The term 'commercial entity' means a cooperative or private organization that exports or promotes an agricultural commodity, including an entity that controls, is controlled by, or is under common control with such a cooperative or private organization.

''(B) MEDIUM-SIZED COMMERCIAL ENTITY.—The term 'medium-sized commercial entity' means a commercial entity that employs not less than 51, nor more than 500, individuals.

"(C) SMALL-SIZED COMMERCIAL ENTITY.—The term 'small-sized commercial entity' means a commercial entity that employs not more than 50 individuals.".

SEC. 1402. ACREAGE REDUCTION REQUIREMENTS.

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

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

"(2) corn under which the acreage planted to corn for harvest on a farm would be limited to the corn crop acreage base for the farm for the crop reduced by not less than 7½ percent."; and

(2) in subsection (b)(2), by striking "grain sorghum, and barley,".

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

(1) in subsection (b)—

(A) by striking paragraph (1); and

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

(2) in subsection (c), by striking "and other programs"; and

(3) in subsection (d)—

(A) in paragraph (1)—

(i) by striking subparagraph (A); and

(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(B) in paragraph (2), by striking ''(A), (B), and (C)'' and inserting ''(A) and (B)''; and

(C) in paragraph (3)—

(i) by striking ''measures specified in subparagraph (A) of paragraph (1) and''; and

(ii) by striking ''(B) or (C)'' and inserting ''(A) or (B)''.

SEC. 1403. END-USE CERTIFICATES.

(a) IN GENERAL.—Subtitle A of title IV of the Agricultural Trade Act of 1978 (7 U.S.C. 5661 et seq.) is amended—

(1) by redesignating section 404 (7 U.S.C. 5664) as section 405; and

(2) by inserting after section 403 the following new section:

''SEC. 404. END-USE CERTIFICATES.

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

''(1) COVERED FOREIGN COMMODITY.—The term 'covered foreign commodity' means any wheat

or barley produced in a foreign country that is imported into the United States, including any imported commodity that will be subsequently commingled with a like commodity produced in the United States.

''(2) END-USE CERTIFICATE.—The term 'end-use certificate' means a certification that describes—

''(A) the class, quantity, and country of origin of the covered foreign commodity;

''(B) the importer and consignee of the covered foreign commodity;

''(C) the end use for which the consignee will use the covered foreign commodity; and

''(D) at the option of the Secretary, the sales price and quality of the covered foreign commodity.

''(b) STATEMENT OF PURPOSE.—The Secretary shall improve monitoring of the end use of covered foreign commodities, as provided in this section, in order to ensure that exports of agricultural commodities under the programs authorized by this Act and other agricultural trade programs are entirely produced in the United States.

''(c) REQUIREMENT ON COVERED FOREIGN COMMODITIES.—The Commissioner of Customs shall not permit the entry into, or the withdrawal from a warehouse

for use in, the United States of a covered foreign commodity, unless the importer of record presents an end-use certificate for the covered foreign commodity that complies with this section at the time of entry or withdrawal, as appropriate.

''(d) MAINTENANCE OF CERTIFICATE WITH COVERED FOREIGN COMMODITY.—The end-use certificate shall be maintained with the covered foreign commodity until the commodity reaches the end use of the commodity within the United States. The end use of a covered foreign commodity includes feeding to livestock, first stage processing for human consumption, exporting from the United States, or (as determined by the Secretary) other end uses.

''(e) CERTIFICATION.—The Secretary shall require any importer or consignee of a covered foreign commodity to certify, on a quarterly basis, the end use or transfer, during the period the commodity is a covered foreign commodity, by the importer or consignee, along with any additional information the Secretary determines to be appropriate.

''(f) COMPLIANCE.—Subsections (b), (c), and (d) of section 402 shall apply to an importer or consignee of a covered foreign commodity subject to the terms and conditions specified in this section.''.

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

SEC. 1404. SENSE OF CONGRESS REGARDING THE EXPORT OF VEGETABLE OIL.

It is the sense of Congress that the Secretary of Agriculture should continue aggressively to promote the export of vegetable oil through all available authorities, including but not limited to the export enhancement program established under section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651).

Subtitle E—Miscellaneous

SEC. 1501. FEDERAL CROP INSURANCE.

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

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

''(1) instituting appropriate requirements for documentation of the actual production history of insured producers to establish recorded or appraised

yields for Federal crop insurance coverage that more accurately reflect the associated actuarial risk, except that the Corporation may not carry out this paragraph in a manner that would prevent beginning farmers from obtaining adequate Federal crop insurance, as determined by the Corporation;

''(2) establishing in counties, to the extent practicable, a crop insurance option based on area yields in a manner that allows an insured producer to qualify for an indemnity if a loss has occurred in a specified area in which the farm of the insured producer is located;

''(3) establishing a database that contains the social security account and employee identification numbers of participating producers and using the numbers to identify insured producers who are high risk for actuarial purposes and insured producers who have not documented at least 4 years of production history, to assess the performance of insurance providers, and for other purposes permitted by law; and

''(4) taking any other measures authorized by law to improve the actuarial soundness of the Federal crop insurance program while maintaining

fairness and effective coverage for agricultural producers.''.

(b) CONFORMING AMENDMENTS.—

(1) REINSURANCE.—Section 508(h) of such Act (7 U.S.C. 1508(h)) is amended by striking the fifth sentence and inserting the following new sentence: ''The Corporation shall also pay operating and administrative costs to insurers of policies on which the Corporation provides reinsurance in an amount determined by the Corporation.''.

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

''(n) AREA YIELD PLAN.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, the Corporation may offer, only as an option to individual crop insurance coverage available under this Act, a crop insurance plan based on an area yield that allows an insured producer to qualify for an indemnity if a loss has occurred in an area, as specified by the Corporation, in which the farm of the producer is located.

''(2) LEVEL OF COVERAGE.—Under a plan offered under paragraph (1), an insured producer shall be allowed to select the level of production at

which an indemnity will be paid consistent with terms and conditions established by the Corporation.''.

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

(A) in subsection (a)(1), by striking ''may'' and inserting ''shall''; and

(B) in subsection (b)—

(i) in paragraph (1)(A)—

(I) by striking ''A crop insurance contract'' and all that follows through ''producer—'' and inserting ''Under regulations issued by the Corporation, a crop insurance contract offered under this title to an eligible insured producer of a commodity with respect to which the Corporation provides crop insurance coverage shall make available to the producer either—'';

(II) by striking ''or'' at the end of clause (i);

(III) in clause (ii)—

(aa) by striking ''5'' and inserting ''4 building to 10''; and

(bb) by striking the period at the end and inserting ''; or''; and

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

''(iii) yield coverage based on—

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

''(II) the area yield under section 508(n) for the crop established under the program for the commodity involved.'';

(ii) in paragraph (1)(B)—

(I) by striking ''two'' and inserting ''3''; and

(II) by inserting after ''subparagraph (A)'' the following: '', where available (as determined by the Corporation),'';

(iii) in paragraph (2)—

(I) by striking ''5'' and inserting ''4 building to 10''; and

(II) by inserting after ''previous crops,'' the following: ''not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual experience), or the area yield,''; and

(iv) in paragraph (3)(A)(i), by inserting after ''farm program yield'' the following: '', not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual experience), as specified in regulations issued by the Corporation based on production history requirements, or the area yield under section 508(n), whichever is applicable,''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall become effective on October 1, 1993.

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

ment, proposed regulations to implement the amendments made by this section.

SEC. 1502. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM AMENDMENTS.

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

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

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

(A) by striking ''may'' and inserting ''shall'';

(B) by striking ''the amount of acres specified in section 1230(b)'' and inserting ''a total of 38,000,000 acres during the 1986 through 1995 calendar years''; and

(C) by striking ''each of calendar years 1994 and 1995'' and inserting ''the 1995 calendar year'';

(3) in section 1237 (16 U.S.C. 3837)—

(A) by striking subsection (b) and inserting the following new subsection:

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

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

''(2) a total of not less than 975,000 acres during the 1991 through 2000 calendar years.''; and

(B) in subsection (c), by striking ''1995'' and inserting ''2000''; and

(4) in section 1241 (16 U.S.C. 3841)—

(A) in subsection (a)—

(i) by striking ''(a)(1) During each of the fiscal years ending September 30, 1986, and September 30, 1987'' and inserting ''(a) During each of fiscal years 1994 through 2000''; and

(ii) by striking paragraph (2); and

(B) in subsection (b), by striking ''(A) through (E)'' and inserting ''A through E''.

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

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

(1) AREA OF CONCENTRATED PUBLIC USE.—The term ''area of concentrated public use'' means an area administered by the Secretary that meets each of the following criteria:

(A) The area is managed primarily for outdoor recreation purposes.

(B) Facilities and services necessary to accommodate heavy public use are provided in the area.

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

(D) Public access to the area is provided in such a manner that admission fees can be efficiently collected at 1 or more centralized locations.

(2) BOAT LAUNCHING FACILITY.—The term ''boat launching facility'' includes any boat launching facility, regardless of whether specialized facilities or services, such as mechanical or hydraulic boat lifts or facilities, are provided.

(3) CAMPGROUND.—The term ''campground'' means any campground where a majority of the following amenities are provided, as determined by the Secretary:

(A) Tent or trailer spaces.

(B) Drinking water.

(C) An access road.

(D) Refuse containers.

(E) Toilet facilities.

(F) The personal collection of recreation use fees by an employee or agent of the Secretary.

(G) Reasonable visitor protection.

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

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

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

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

(2) acting through the Forest Service, shall reimburse the Agricultural Stabilization and Conservation Service for administrative costs incurred under the Stewardship Incentive Program for the actual cost of services provided by the Agricultural Stabilization and Conservation Service, except that the actual costs shall not exceed 10 percent of the total annual appropriation for the program; and

(3) may charge recreation use fees at lands administered by the Secretary in connection with the use of specialized outdoor recreation sites, equip-

ment, services, and facilities, including visitors' centers, picnic tables, boat launching facilities, and campgrounds.

(c) AMOUNT OF FEES.—The amount of the admission, entrance, and recreation fees authorized to be imposed under this section shall be determined by the Secretary.

SEC. 1504. SENSE OF THE SENATE REGARDING DEFICIT REDUCTION.

It is the sense of the Senate that—

(1) farmers should pay no more than their fair share of any budget reduction necessary to achieve the goal of deficit reduction; and

(2) the level of budget reduction should take into account and be adjusted to reflect any BTU or energy taxes, any other taxes, reduction in interest rates, and other user fees.

TITLE II—COMMITTEE ON ARMED SERVICES

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

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

''(2) PRE-AUGUST 1, 1986 MEMBERS.—

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

"(i) the price index for the base quarter of that year, exceeds

"(ii) the base index.

"(B) SPECIAL RULES FOR FISCAL YEARS 1994 THROUGH 1998.—

"(i) FISCAL YEARS 1994 THROUGH 1997.—In the case of an increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1 of 1993, 1994, 1995, or 1996, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be September of the following year.

"(ii) FISCAL YEAR 1998.—In the case of an increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1, 1997, the initial month for which such increase is payable as part of

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

''(C) INAPPLICABILITY TO DISABILITY RETIREES.—Subparagraph (B) does not apply with respect to the retired pay of a member retired under chapter 61 of this title.''.

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

SEC. 3001. NATIONAL DEPOSITOR PREFERENCE.

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

''(11) DEPOSITOR PREFERENCE.—

''(A) IN GENERAL.—Subject to section 5(e)(2)(C), amounts realized from the liquidation or other resolution of any insured depository institution by any receiver appointed for such institution shall be distributed to pay claims (other than secured claims to the extent of any such security) in the following order of priority:

''(i) Administrative expenses of the receiver.

''(ii) Any deposit liability of the institution.

''(iii) Any other general or senior liability of the institution (which is not a liability described in clause (iv) or (v)).

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

''(v) Any obligation to shareholders or members arising as a result of their status as shareholders or members (including any depository institution holding company or any shareholder or creditor of such company).

''(B) EFFECT ON STATE LAW.—

''(i) IN GENERAL.—The provisions of subparagraph (A) shall not supersede the law of any State except to the extent such law is inconsistent with the provisions of such subparagraph, and then only to the extent of the inconsistency.

''(ii) PROCEDURE FOR DETERMINATION OF INCONSISTENCY.—Upon the Corporation's own motion or upon the request of any person with a claim described in

subparagraph (A)(i) or any State which is submitted to the Corporation in accordance with procedures which the Corporation shall prescribe, the Corporation shall determine whether any provision of the law of any State is inconsistent with any provision of subparagraph (A) and the extent of any such inconsistency.

''(iii) JUDICIAL REVIEW.—The final determination of the Corporation under clause (ii) shall be subject to judicial review under chapter 7 of title 5, United States Code.

''(C) ACCOUNTING REPORT.—Any distribution by the Corporation in connection with any claim described in subparagraph (A)(vi) shall be accompanied by the accounting report required under paragraph (15)(B).''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

(A) in subparagraph (A), by striking ''subject to subparagraph (B),'';

(B) by inserting ''and'' after the semicolon at the end of subparagraph (A);

(C) by striking subparagraph (B); and

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

(2) Section 11(g)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1921(g)(4)) is amended by striking ''If the Corporation'' and inserting ''Subject to subsection (d)(11), if the Corporation''.

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

SEC. 3002. TRANSFER OF FEDERAL RESERVE SURPLUSES.

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

''(a) DIVIDENDS AND SURPLUS FUNDS OF RESERVE BANKS.—

''(1) STOCKHOLDER DIVIDENDS.—

''(A) IN GENERAL.—After all necessary expenses of a Federal reserve bank have been paid or provided for, the stockholders of the bank shall be entitled to receive an annual dividend of 6 percent on paid-in capital stock.

"(B) DIVIDEND CUMULATIVE.—The entitlement to dividends under subparagraph shall be cumulative.

"(2) DEPOSIT OF NET EARNINGS IN SURPLUS FUND.—That portion of net earnings of each Federal reserve bank which remains after dividend claims under subparagraph (A) have been fully met shall be deposited in the surplus fund of the bank.

"(3) PAYMENT TO TREASURY.—During fiscal years 1997 and 1998, any amount in the surplus fund of any Federal reserve bank in excess of the amount equal to 3 percent of the total paid-in capital and surplus of the member banks of such bank shall be transferred to the Board for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury.".

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

(1) IN GENERAL.—In addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to section 7(a)(3) of the Federal Reserve Act, the Federal reserve banks shall transfer from such surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury

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

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

(3) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—No Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under paragraph (1) during fiscal years 1997 and 1998.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The penultimate undesignated paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 290) is amended by striking ''The net earnings derived'' and inserting ''(b) USE OF EARNINGS TRANSFERRED TO THE TREASURY.—The net earnings derived''.

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

inserting ''(c) EXEMPTION FROM TAXATION.—Federal reserve banks''.

SEC. 3003. USE OF RETURN DATA FOR INCOME VERIFICATION UNDER CERTAIN HOUSING ASSISTANCE PROGRAMS.

(a) AMENDMENTS TO HOUSING ACTS.—Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544) is amended as follows:

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

''(4) PROGRAM OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—The term 'program of the Department of Housing and Urban Development' includes Indian housing programs assisted under title II of the United States Housing Act of 1937.''.

(2) CONSENT FORMS.—In subsection (b)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and'';

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

''(3) sign a consent form approved by the Secretary authorizing the Secretary to request the Commissioner of Social Security and the Secretary of the Treasury to release information pursuant to section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 with respect to such applicant or participant for the sole purpose of the Secretary verifying income information pertinent to the applicant's or participant's eligibility or level of benefits.''; and

(D) in the last sentence, by striking ''This'' and inserting the following: ''Except as provided in this subsection, this''.

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

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) by inserting after ''compensation law'' the following: ''or pursuant to section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 from the Commissioner of Social Security or the Secretary of the Treasury''; and

(II) by inserting ''(in the case of information obtained pursuant to such section 303(i))'' before ''representatives''; and

(ii) in clause (ii), by inserting ''or public housing agency'' after ''owner'' each place it appears; and

(B) in subparagraph (B), by inserting after ''wages'' each place it appears the following: '', other earnings or income,''.

(3) PENALTY.—In subsection (c)(3)—

(A) in subparagraph (A), by inserting ''or section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986'' after ''Social Security Act''; and

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

(i) by striking clause (i) and inserting the following: ''(i) a negligent or knowing disclosure of information referred to in this section, section 303(i) of the Social Security Act, or section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 about such person by an officer or employee of any public housing agency or owner (or

employee thereof), which disclosure is not authorized by this section, such section 303(i), such section 6103(l)(7)(D)(ix), or any regulation implementing this section, such section 303(i), or such section 6103(l)(7)(D)(ix), or''; and

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

(4) CONFORMING AMENDMENT.—The heading of subsection (c) of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 is amended by striking ''STATE EMPLOYMENT''.

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

''(4) Adjustments to a public housing agency's operating subsidy made by the Secretary under this section shall reflect actual changes in rental income collections resulting from the application of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.''.

(b) CONFORMING INTERNAL REVENUE CODE AMENDMENTS.—

(1) IN GENERAL.—Subparagraph (D) of section 6103(*l*)(7) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(*l*)(7)(D); relating to the disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(A) in clause (vii), by striking ''; and'' at the end and inserting a semicolon;

(B) in clause (viii), by striking the period at the end and inserting ''; and'';

(C) by inserting after clause (viii) the following new clause:

''(ix) any housing assistance program administered by the Department of Housing and Urban Development that involves initial and periodic review of an applicant's or participant's income, except that return information may be disclosed under this paragraph only to the Secretary of Housing and Urban Development and only with respect to applicants for and participants in such programs who have signed consent forms under section 904(b)(3) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.''; and

(D) by adding at the end the following: ''Clause (ix) shall not apply after September 30, 1998.''.

(2) AMENDMENT TO THE HEADING.—The heading of paragraph (7) of section 6103(l) of the Internal Revenue Code of 1986 is amended by inserting after ''1977,'' the following: ''CERTAIN HOUSING ASSISTANCE PROGRAMS,''.

SEC. 3004. GNMA REMIC GUARANTEE FEES.

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

''(E)(i) Notwithstanding subparagraphs (A) through (D), fees charged for the guarantee of, or commitment to guarantee, multiclass securities backed by a trust or pool of securities or notes guaranteed by the Association under this subsection, and other related fees shall be charged by the Association in an amount the Association deems appropriate. The Association shall take such action as may be necessary to reasonably assure that such portion of the benefit, resulting from the Association's multiclass securities program, as the Association determines is appropriate accrues to mortgagors who execute eligible mortgages after the date of the enactment of this subparagraph.

''(ii) In its annual report, the Association shall provide a summary of each activity of the Association pertaining to the Association's multiclass securities program. Each summary shall contain a description of the activity and shall include—

''(I) information pertaining to the size of the transactions closed, the number of mortgages involved, the amount of fees charged, those persons or entities receiving payments for services provided and the amounts of such payments; and

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

''(iii) The Association shall provide for the initial implementation of the program for which fees are charged under the first sentence of clause (i) by notice published in the Federal Register. The notice shall be effective upon publication and shall provide an opportunity for public comment. Not later than 12 months after publication of the notice, the Association shall issue regulations for such program based on the notice, comments received, and the experience of the Association in carrying out the program during such period.

''(iv) The Association shall consult with persons or entities in such manner as the Association deems appropriate to ensure the efficient commencement and operation of the multiclass securities program.

''(v) No State or local law, and no Federal law (except Federal law enacted expressly in limitation of this clause after the effective date of this subparagraph) shall preclude or limit the exercise by the Association of its power to contract with persons or entities, and its rights to enforce such contracts, for the purpose of ensuring the efficient commencement and continued operation of the multiclass securities program.

''(vi) Prior to the commencement of the multiclass securities program, the Association shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report describing the Association's design of the multiclass securities program, including program elements that ensure the minimization of risks arising from the operation of the multiclass securities program, such as—

''(I) any industry proven safeguards, including capital standards for sponsors and provisions for indemnification from private parties for events that

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

''(II) the sufficiency of the Association's staff resources to administer the multiclass securities program.''.

SEC. 3005. MUTUAL MORTGAGE INSURANCE FUND PREMIUMS.

To improve the actuarial soundness of the Mutual Mortgage Insurance Fund under the National Housing Act, the Secretary of Housing and Urban Development shall increase the rate at which the Secretary earns the single premium payment collected at the time of insurance of a mortgage that is an obligation of such Fund (with respect to the rate in effect on the date of the enactment of this Act). In establishing such increased rate, the Secretary shall consider any current audit findings and reserve analyses and information regarding the expected average duration of mortgages that are obligations of such Fund and may consider any other information that the Secretary determines to be appropriate.

TITLE IV—COMMUNICATIONS AND TRANSPORTATION

Subtitle A—Spectrum Allocation and Auction

SEC. 401. SHORT TITLE.

This subtitle may be cited as the ''Emerging Telecommunications Technologies Act of 1993''.

SEC. 402. FINDINGS.

The Congress finds that—

(1) the Federal Government currently reserves for its own use, or has priority of access to, approximately 40 percent of the electromagnetic spectrum that is assigned for use pursuant to the Communications Act of 1934;

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

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

(4) additional frequencies are assigned for services that could be obtained more efficiently from commercial providers or other vendors;

(5) scarcity of assignable frequencies for licensing by the Commission can and will—

(A) impede the development and commercialization of new telecommunications products and services;

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

(C) prevent some State and local police, fire, and emergency services from obtaining urgently needed radio channels; and

(D) adversely affect the productive capacity and international competitiveness of the United States economy;

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

(7) a reassignment of Federal Government frequencies can be accomplished without adverse impact on amateur radio licenses that currently share allocations with Federal Government stations;

(8) current spectrum assignment procedures—comparative hearings and lotteries—can be expensive and time consuming, can strain the limited resources of the Federal Communications Commission, and can result in an inefficient distribution of spectrum and an unjustified windfall to speculators;

(9) competitive bidding could reduce the cost in time and money—and increase the efficiency—of the spectrum assignment process for certain radio services, discourage speculative applications, encourage the efficient use of spectrum by licensees, and fairly compensate United States taxpayers for use of a scarce public natural resource;

(10) competitive bidding should be structured to—

(A) facilitate introduction of new spectrum-based technologies and services and entry of new companies into the telecommunications market;

(B) recognize the legitimate needs of rural telephone companies in providing spectrum-based, common carrier services in rural markets in which they provide telephone exchange service by wire;

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

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

(E) recognize the need to ensure that adequate spectrum continues to be available for public safety services; and

(F) otherwise further the public interest;

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

(A) disrupt the operations of existing spectrum licensees;

(B) alter existing spectrum allocation procedures;

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

(D) diminish the existing authority of the Federal Communications Commission to regulate or reclaim spectrum licenses;

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

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

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

(A) funding spectrum management, planning, monitoring, and enforcement and other activities of the Federal Communications Commission, the National Telecommunications and Information Administration, and other Federal agencies aimed at increasing the efficiency and effectiveness of spectrum use, facilitating the introduction of new spectrum-based technologies and services, and enhancing the international competitiveness of the United States and the ability of American companies to enter new markets; and

(B) extending the reach of public radio and television to underserved areas of the United States and underserved groups of Americans and enhancing the ability of public telecommunications to deliver needed original, high-quality public service programming; and

(13) because commercial mobile services require a Federal license and the Federal Government is attempting to promote competition for such services, and because providers of such services do not exercise market power vis-a-vis telephone exchange service carriers and State regulation can be a barrier to the development of competition in this market, uni-

form national policy is necessary and in the public interest.

SEC. 403. NATIONAL SPECTRUM PLANNING.

(a) PLANNING ACTIVITIES.—The Assistant Secretary of Commerce for Communications and Information and the Chairman of the Commission shall meet, at least biannually, to conduct joint spectrum planning with respect to the following issues:

(1) the future spectrum requirements for public and private uses, including State and local government public safety agencies;

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

(3) actions necessary to promote the efficient use of the spectrum, including spectrum management techniques to promote increased shared use of the spectrum that does not cause harmful interference, as a means of increasing commercial access.

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

the Senate on the joint spectrum planning activities conducted under subsection (a) and recommendations for action developed pursuant to such activities. The report shall contain recommendations for the reform of the process of allocating spectrum between Federal uses and non-Federal uses.

(c) PROCEDURES TO ENSURE OPPORTUNITY FOR MINORITY-OWNED BUSINESSES AND SMALL BUSINESSES.—The Commission shall develop procedures to ensure that minority-owned businesses and small businesses are given the opportunity to provide spectrum-based services. In developing such procedures, the Commission shall consider the use of tax certificates and bidding preferences.

(d) STUDY ON SPECTRUM NEEDS OF PUBLIC SAFETY AGENCIES.—The Commission shall complete and submit to Congress, not later than 18 months after the date of enactment of this Act, a study of current and future spectrum needs of State and local government public safety agencies through the year 2010, and a specific plan to satisfy those spectrum needs.

SEC. 404. RECOMMENDATIONS FOR REALLOCATION OF CERTAIN FREQUENCIES.

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

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

(2) are not required for the present or identifiable future needs of the Federal Government;

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

(4) are most likely to have the greatest potential for productive uses and public benefits under the Act if allocated for commercial uses.

(b) MINIMUM AMOUNT OF SPECTRUM RECOMMENDED.—

(1) OVERALL RECOMMENDATION.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation, for use

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

(2) MIXED USES PERMITTED TO BE COUNTED.—Among the frequencies recommended under this section for reallocation, the Secretary may include frequencies and frequency bands that are to be partially retained for use by Federal Government stations but that are also recommended to be reallocated under the Act for use by non-Federal stations, except that—

(A) such mixed-use frequencies and frequency bands may not count toward more than one-half of the 200 megahertz minimum required by paragraph (1);

(B) such mixed-use frequencies and frequency bands may not be so counted unless the assignments of the frequencies to Federal Government stations under section 305 of the Act (47 U.S.C. 305) are limited by geographic area, by time, or by other means so as to guarantee that the potential use to be made by such Fed-

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

(C) the operational sharing permitted under this paragraph shall be subject to coordination procedures that the Commission and the Secretary shall jointly establish and implement to ensure against harmful interference.

(c) CONSIDERATION OF CRITERIA FOR IDENTIFICATION.—

(1) NEEDS OF THE FEDERAL GOVERNMENT.—In determining whether a frequency meets the criteria specified in subsection (a)(2), the Secretary shall—

(A) consider whether the frequency is used to provide a communications service that is or could be made available from a commercial carrier or other vendor;

(B) seek to promote—

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

(ii) the sharing of frequencies (as permitted under subsection (b)(2));

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

(iv) the use of nonradiating communications systems where practicable; and

(C) seek to avoid—

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

(ii) excessive costs to the Federal Government and users of Federal Government services; and

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

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

(A) assume that the frequency will be assigned by the Commission under section 303 of the Act (47 U.S.C. 303) within 15 years;

(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

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

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

(3) COMMERCIAL USE.—In determining whether a frequency meets the criteria specified in subsection (a)(4), the Secretary shall consider—

(A) the extent to which equipment is available that is capable of utilizing such frequency;

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

(C) the extent to which, in general, commercial users could share the frequency with amateur radio licensees; and

(D) the activities of foreign governments in making frequencies available for experimentation or commercial assignments in order to support their domestic manufacturers of equipment.

(4) OTHER USES.—

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

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

(B) MIXED USE ELIGIBILITY.—The frequencies assigned to any Federal power agency may only be eligible for mixed use under subsection (b)(2) in geographically separate areas, but in those cases where a frequency is to be shared by an affected Federal power agency and a non-Federal user, such use by the non-Federal user shall not cause harmful interference to the affected Federal power agency or adversely affect the reliability of its power system.

(C) DEFINITION.—As used in this paragraph, the term ''Federal power agency'' means the Tennessee Valley Authority, the Bonneville Power Administration, the Western Area Power Administration, or the Southwestern Power Administration.

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

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

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

(2) PRELIMINARY REPORT ON OTHER REALLOCABLE FREQUENCIES.—Within 6 months after the date of enactment of this Act, the Secretary shall prepare, make publicly available, and submit to the President and the Congress a preliminary report that recommends for reallocation at least 170 megahertz of frequencies identified under subsection (a), other than those recommended for immediate reallocation under paragraph (1).

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

(4) DIRECT DISCUSSIONS.—The Secretary shall encourage and provide opportunity for direct discussions among commercial representatives and Federal

Government users of the spectrum to aid the Secretary in determining which frequencies to recommend for reallocation. The Secretary shall provide notice to the public of any such discussions, including the name or names of any businesses or other persons represented in such discussions, and shall provide the public with an opportunity to comment on the results of any such negotiations prior to the submission of the final report required by paragraph (5).

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

(6) LIMITATION ON REALLOCATION.—None of the frequencies recommended for reallocation in the reports required by this subsection shall have been recommended, prior to the date of enactment of this Act, for reallocation to non-Federal use by international agreement.

(e) TIMETABLE FOR REALLOCATION AND LIMITATION.—The Secretary shall, as part of the reports required by paragraphs (1) and (2) of subsection (d), include a timetable that recommends dates by which the President shall withdraw or limit assignments of the frequencies specified in the reports. In setting the recommended effectived dates, the Secretary shall—

(1) consider the need to reallocate frequencies as early as possible, taking into account the requirements of section 406;

(2) consider the useful remaining life of equipment that has been purchased or contracted for purchase to operate on identified frequencies;

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

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

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

(a) IN GENERAL.—The President shall—

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

ment to a Federal Government station of any frequency in the frequencies recommended by that report for immediate reallocation;

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

(3) assign or reassign other frequencies to Federal Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

(4) transmit a notice and description to the Commission and each House of Congress of the actions taken under this subsection.

(b) EXCEPTIONS.—

(1) AUTHORITY TO SUBSTITUTE.—If the President determines that a circumstance described in paragraph (2) exists, the President—

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

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

(B) shall submit a statement of the reasons for taking the action described in subparagraph (A) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) GROUNDS FOR SUBSTITUTION.—Each of the following subparagraphs describes a circumstance referred to in paragraph (1):

(A) The reassignment would seriously jeopardize the national defense interests of the United States.

(B) The frequency proposed for reassignment is uniquely suited to meeting important governmental needs.

(C) The reassignment would seriously jeopardize public health or safety.

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

(E) The reassignment will disrupt the existing use of a Federal Government band of frequencies by amateur radio licensees.

(3) CRITERIA FOR SUBSTITUTED FREQUENCIES.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified and recommended under section 404 for reallocation, unless the substituted frequency also meets each of the criteria specified by section 404(a).

(4) DELAYS IN IMPLEMENTATION.—If the President determines that any action cannot be completed by the effective date recommended by the Secretary pursuant to section 404(e), or that such an action by such date would result in a frequency being unused as a consequence of the Commission's plan under section 404(b), the President may—

(A) withdraw or limit the assignment to Federal Government stations on a later date that is consistent with such plan, except that the President shall notify each Committee specified in paragraph (1)(B) and the Commission of the reason that withdrawal or limitation at a later date is required; or

(B) substitute alternative frequencies pursuant to this subsection.

(c) COSTS OF WITHDRAWING FREQUENCIES ASSIGNED TO THE FEDERAL GOVERNMENT.—

(1) REIMBURSEMENT AUTHORIZED.—Any Federal agency, or non-Federal entity operating on behalf of a Federal agency, whose operation is displaced from a frequency pursuant to this section may be reimbursed, from revenues received pursuant to section 408, not more than the incremental costs such agency or entity incurs (in such amounts as are provided in advance in an appropriations Act) that are directly attributable to the displacement from the frequency. The estimates of these costs shall be prepared by the affected agency, in consultation with the Department of Commerce.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the affected Federal agencies such sums as may be necessary to carry out the purposes of this subsection.

(d) EXISTING AUTHORITY RETAINED.—

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

(2) IMPLEMENTATION OF NEW TECHNOLOGIES AND SERVICES.—Notwithstanding any other provision of this subtitle—

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

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

SEC. 406. ALLOCATION AND ASSIGNMENT OF FREQUENCIES BY THE COMMISSION.

(a) ALLOCATION AND ASSIGNMENT OF IMMEDIATELY AVAILABLE FREQUENCIES.—With respect to the frequencies made available for immediate reallocation pursuant to section 405(a)(1), the Commission, not later than 18 months after the date of enactment of this Act, shall issue rules to allocate such frequencies and shall propose rules to assign such frequencies.

(b) ALLOCATION AND ASSIGNMENT OF REMAINING AVAILABLE FREQUENCIES.—With respect to the frequencies made available for reallocation pursuant to sec-

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

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

(A) gradually to allocate and assign the frequencies remaining, after making the reservation required by subparagraph (B), over the course of 10 years beginning on the date of submission of such plan; and

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

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

(3) address (A) the feasibility of reallocating portions of the spectrum from current commercial and other non-Federal uses to provide for more efficient use of the spectrum, and (B) innovation and marketplace developments that may affect the relative efficiencies of different spectrum allocations;

(4) not prevent the Commission from allocating frequencies, and assigning licenses to use frequencies, not included in the plan; and

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

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

''(v) Have authority to assign licenses to use the frequencies reallocated from United States Government use to non-United States Government use pursuant to the Emerging Telecommunications Technologies Act of 1993; except that any such assignment shall be made expressly subject to the right of the President to reclaim such frequencies under section 7 of such Act.''.

SEC. 407. AUTHORITY TO RECLAIM REASSIGNED FREQUENCIES.

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

pursuant to section 405, the President may reclaim reassigned frequencies for reassignment to Federal Government stations in accordance with this section.

(b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

(1) UNALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have not been allocated or assigned by the Commission pursuant to the Act, the President shall follow the procedures for substitution of frequencies established by section 405(b) of this subtitle.

(2) ALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have been allocated or assigned by the Commission, the President shall follow the procedures for substitution of frequencies established by section 405(b) of this subtitle, except that the notification required by section 405(b)(1)(B) shall include—

(A) a timetable to accommodate an orderly transition for displaced licensees to obtain new frequencies and equipment necessary for its utilization; and

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

(c) COSTS OF RECLAIMING FREQUENCIES; APPROPRIATIONS AUTHORIZED.—The Federal Government shall

bear all costs of reclaiming frequencies pursuant to this section, including the cost of equipment which is rendered unusable, the cost of relocating operations to a different frequency, and any other costs that are directly attributable to the reclaiming of the frequency pursuant to this section. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(d) EFFECTIVE DATE OF RECLAIMED FREQUENCIES.—The Commission shall not withdraw licenses for any reclaimed frequencies until the end of the fiscal year following the fiscal year in which the President's notification is received.

(e) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under section 706 of the Act (47 U.S.C. 606).

SEC. 408. COMPETITIVE BIDDING.

(a) COMPETITIVE BIDDING.—

(1) IN GENERAL.—

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

censes for which two or more mutually exclusive applications have been filed, including the 200 megahertz of spectrum made available to the Commission under this subtitle, and including the licenses issued for a personal communications service established pursuant to the proceeding entitled ''Amendment to the Commission's Rules to Establish New Personal Communications Services'', or any successor proceeding, except for those licenses identified in subparagraphs (A) through (E) of section 309(j)(4) of the Act and those licenses that the Commission determines should in the public interest be issued by comparative hearing under section 309(a) through (f) of the Act. To the extent possible, and consistent with the purposes of this subtitle, the Commission shall seek to ensure that revenues received pursuant to the competitive bidding process are received before the end of fiscal year 1998.

(B) EXPIRATION OF REQUIREMENTS.—The requirements of subparagraph (A) shall expire either—

(i) upon a determination by the Secretary of the Treasury that competitive

bidding has resulted in or is reasonably expected to result in the receipt of $7,200,000,000 by the end of fiscal year 1998, or

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

(C) REPORT TO PRESIDENT AND CONGRESS.—The Commission shall prepare, in consultation with the Assistant Secretary of Commerce for Communications and Information, and submit to the President and the Congress, not later than March 31, 1997, and March 31, 1999, reports on the use of competitive bidding under subparagraph (A). Such reports shall examine, in addition to any other matters deemed appropriate by the Commission, whether and to what extent—

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

(ii) competitive bidding facilitated the introduction of new spectrum-based technologies and the entry of new companies into the telecommunications market;

(iii) the needs of rural spectrum users were adequately addressed in the competitive bidding process;

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

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

(2) RETENTION OF REVENUES.—Notwithstanding paragraph (6) of section 309(j) of the Act, as added by this subtitle, the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from the receipts received pursuant to such section for the costs of developing and implementing the program required by subsection (a)(1)(A). Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis. Any funds appropriated to the Commission for fiscal years 1994 through 1998 for the purpose of assigning licenses using random selection under section 309(i) of the Act shall

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

(b) COMPETITIVE BIDDING AUTHORIZATION.—Section 309 of the Act (47 U.S.C. 309) is amended by adding at the end the following new subsection:

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

''(2)(A) The Commission shall, within 6 months after the date of enactment of the Emerging Telecommunications Technologies Act of 1993 and following public notice and comment proceedings, issue rules establishing competitive bidding procedures under this subsection. Such rules shall include safeguards to protect the public interest in the use of the spectrum and shall ensure the opportunity for successful participation by small businesses and minority-owned businesses.

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

other information as the Commission finds necessary. After conducting the bidding, the Commission shall require the wining bidder to file a second-stage application. After determining that such application is acceptable for filing and that the winning bidder is qualified as described in clause (ii), the Commission shall grant the permit or license to the winning bidder.

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

''(iii) Each participant in the competitive bidding process shall be subject to the schedule of charges contained in section 8.

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

''(i) establish the method of bidding (including but not limited to sealed bids) and the basis for payment (such as installment or lump sum payments, royalties on future income, a combination thereof, or

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

''(ii) establish other appropriate conditions on such permits and licenses that serve the public interest.

''(3)(A)(i) If the Commission decides to use competitive bidding to grant two or more national, regional, or local licenses per market in a terrestrial service that will compete with telephone exchange service provided by a qualified common carrier, the Commission shall designate one such license per market as a rural program license.

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

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

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

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

''(II) own any equity interest in, become a creditor of, or otherwise become affiliated with any entity that holds a license to provide the same service in such area.

''(iii) Any qualified common carrier that receives a rural program license shall (I) provide to all other licensees providing the same service in such area the same quality of access to its wire network that it provides itself, and (II) shall interconnect its wireless service with the wireless service provided by another licensee providing the same service on the same frequency in a different geographic area. Such other licensee shall provide an equivalent interconnection with the wireless service of such rural program licensee.

''(iv) The Commission may establish other rules or conditions for the award of a rural program license, consistent with the intent of this paragraph.

''(C)(i) Upon the grant of a rural program license to a qualified common carrier, such carrier shall pay a fee (in lump sum or installment payments, in royalties on future income, in a combination thereof, or on any other reasonable basis specified by the Commission) equal to the value of such license. The value of such license shall be the average of the amounts paid by persons granted licenses through competitive bidding to provide the same

service in such area, except that the Commission shall determine the value of such license by any reasonable means when the geographic area served by the rural program license is not congruent with the geographic area served by the other license or licenses. The Commission shall ensure that the total amount paid by qualified common carriers for all the licenses issued to them under the rural program shall equal the total value, as determined under clause (ii), of such licenses.

''(ii) The Commission shall determine the total value of the licenses issued under the rural program to qualified common carriers by first adding the amounts paid for the licenses not subject to the rural program, and dividing that sum by the number of licenses per market that are not subject to the rural program. The Commission shall then subtract from the amount found in the previous calculation the total amount paid for the licenses issued for the non-rural areas under bidding subject to the rural program and the total amount paid for licenses issued pursuant to subparagraph (D). The amount remaining shall be the total value of all the licenses issued under the rural program to qualified common carriers.

''(D) If no qualified common carrier applies for a rural program license in a particular market and the Commission awards the non-rural program licenses through

competitive bidding, the rural program shall not apply for that particular market and the Commission shall use competitive bidding to award the licenses for the former rural program areas, either separately or as part of larger license areas.

''(E) For purposes of this paragraph—

''(i) the term 'rural area' means any geographic area that does not include either—

''(I) any incorporated place of 10,000 inhabitants or more, or any part thereof; or

''(II) any territory, incorporated or unincorporated, included in an urbanized area (as defined by the Bureau of the Census as of the date of enactment of the Emerging Telecommunications Technologies Act of 1993); and

''(ii) the term 'qualified common carrier' means a common carrier that—

''(I) either provides telephone exchange service by wire in a rural area, provides telephone exchange service by wire to less than 10,000 subscribers, or is a telephone utility whose income accrues to a State or political subdivision thereof; and

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

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

''(F) The provisions of subparagraph (A)(ii) do not limit the Commission's discretion to determine, for licenses issued other than under this paragraph, the size of any market area or the number of licensees for any service.

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

''(A) because of the need to avoid excessive service disruption, extend to license renewals and modifications;

''(B) because of the essential services they provide, extend to licenses reserved for the United States Government and State or local government entities;

''(C) because of their public service obligations, extend to licenses to provide amateur operator services, over-the-air terrestrial radio and television broadcast services, public safety services, and radio astronomy services;

''(D) because they do not involve mutually exclusive applications, extend to private radio end-user licenses, including Specialized Mobile Radio Service

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

''(E) because of the need to avoid excessive service disruption, extend to any license grant to a non-Federal licensee being moved from its current frequency assignment to a different one by the Commission in order to make spectrum available for new technologies; and

''(F) extend to any other service, class of services, or assignments that the Commission determines, after conducting public notice and comment proceedings, should be exempt from competitive bidding because of public interest factors warranting an exemption to the extent the Commission determines the use of competitive bidding would jeopardize appropriate treatment of those factors.

''(5) No provision of this subsection or of the Emerging Telecommunications Technologies Act of 1993 shall be construed, in any way, to—

''(A) alter spectrum allocation criteria and procedures established by the other provisions of this Act;

''(B) allow the Commission to consider potential revenues from competitive bidding when making decisions concerning spectrum allocation;

''(C) diminish the authority of the Commission under the other provisions of this Act to regulate or reclaim spectrum licenses;

''(D) grant any right to a spectrum licensee different from the rights awarded to licensees who obtained their license through assignment methods other than competitive bidding; or

''(E) prevent the Commission from awarding licenses to those persons who make significant contributions to the development of a new telecommunications service or technology.

''(6) Moneys received from competitive bidding pursuant to this subsection shall be deposited in the general fund of the Treasury.''

(c) STATE AND LOCAL TAX TREATMENT OF LICENSES AND PERMITS.—Title VII of the Act (47 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

''SEC. 714. STATE AND LOCAL TAX TREATMENT OF LICENSES AND PERMITS.

''A license or permit issued by the Commission under this Act shall not be treated as the property of the licensee for property tax purposes, or other similar tax purposes, by any State or local government entity.''.

SEC. 409. REGULATORY PARITY.

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

(1) by striking ''PRIVATE LAND'' from the heading of the section; and

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

''(c)(1)(A) A person engaged in the provision of commercial mobile services shall, insofar as such person is so engaged, be treated as a common carrier for purposes of this Act, except that the Commission may waive the requirements of sections 203, 204, 205, and 214, and the 30-day notice provision of section 309(a), for commercial mobile services and such other provisions of title II as the Commission may, consistent with the public interest, specify by rule. In prescribing any such rule, the Commission may not waive for commercial mobile services the requirements of section 201, 202, 206, 208, 209, 215(c), 216, 217, 220 (d) or (e), 223, 225, 226 (a), (b), (c), (d), (e), (f), (g), or (i), 227, or 228, or any other provision that is necessary in order to ensure that the charges, practices, classifications, or regulations for or in connection with commercial mobile services are just and reasonable and are not unjustly or unreasonably discriminatory or that is otherwise in the public interest.

''(B) Upon reasonable request of any person providing commercial mobile service, the Commission shall order a common carrier to establish physical connections with such service pursuant to section 201. Except to the extent that the Commission is required to respond to such a request, this subparagraph shall not be construed as a limitation or expansion of the Commission's authority to order interconnection under this Act.

''(2) A person engaged in private land mobile service shall not, insofar as such person is so engaged, be treated as a common carrier for any purpose under this Act. A common carrier shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent that such dispatch service is provided on stations licensed by the Commission in the Specialized Mobile Radio Service prior to May 24, 1993, or is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982. The Commission may by regulation terminate, in whole or in part, the prohibition contained in the preceding sentence if the commission determines that such termination will service the public interest.

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

cial mobile service or any private land mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services. Nothing in this subparagraph shall exempt providers of commercial mobile services (where such services are a substitute for land line telephone exchange service for a substantial portion of the communications within such State) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the continued availability of telephone exchange service at affordable rates.

''(B) Notwithstanding subparagraph (A), a State may petition the Commission for authority to regulate the rates for any commercial mobile service if such State demonstrates that (i) such service is a substitute for land line telephone exchange service for a substantial portion of the communications within such State, or (ii) market conditions with respect to such services fail to protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition. If the Commission grants such petition, the Commission shall authorize the State to exercise

under State law such authority over rates, for such periods of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

''(C) If a State has in effect on June 1, 1993, any regulation concerning the rates for any commercial mobile service, such State may, no later than 1 year after the date of enactment of the Emerging Telecommunications Technologies Act of 1993, petition the Commission requesting that the State be authorized to continue exercising authority over such rates. The State's existing regulation shall, notwithstanding subparagraph (A), remain in effect until the Commission issues a final order granting or denying such petition. The Commission shall review such petition in accordance with the procedures and schedule established in subparagraph (B), and shall grant such petition if the State satisfies the showing required under subparagraph (B)(i) or (B)(ii). If the Commission grants such petition, the Commission shall authorize the State to exercise under the State law such authority over rates, for such period of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

''(D) After a reasonable period of time, as determined by the Commission, has elapsed from the issuance of an

order under subparagraph (B) or (C), any interested party may petition the Commission for an order that the exercise of authority by a State pursuant to such subparagraph is no longer necessary to ensure that the rates for commercial mobile services are just and reasonable and not unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition in whole or in part.

''(4) Nothing in this subsection shall be construed to alter or affect the regulatory treatment required by title IV of the Communications Satellite Act of 1962 of the corporation authorized by title III of such Act.

''(5) The Commission shall continue to determine whether the provision of space segment capacity by satellite systems to providers of commercial mobile services shall be treated as common carriage.

''(6) The provisions of section 310(b) shall not apply to any lawful foreign ownership in a provider of commercial mobile services prior to May 24, 1993, if that provider was not regulated as a common carrier prior to the date of enactment of the Emerging Telecommunications Technologies Act of 1993 and is deemed to be a common carrier under this Act.

''(7) For purposes of this section—

''(A) the term 'commercial mobile service' means any mobile service (as defined in section 3(n)) that, as specified by regulation by the Commission, is provided for profit and makes interconnected service available (i) to the public or (ii) to such broad classes of eligible users as to be effectively available to a substantial portion of the public;

''(B) the term 'interconnected service' means service that is interconnected with the public switched network (as such term is defined by regulation by the Commission) or service for which interconnection pursuant to paragraph (1)(B) is pending; and

''(C) the term 'private land mobile service' means any mobile service (as defined in section 3(n)) that is not a commercial mobile service under subparagraph (A).''.

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF MOBILE SERVICE.—Section 3 of the Act (47 U.S.C. 153) is amended—

(A) in subsection (n)—

(i) by inserting ''(1)'' immediately after ''and includes''; and

(ii) by inserting immediately before the period at the end the following: ‘‘, (2) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (3) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled ‘Amendment to the Commission’s Rules to Establish New Personal Communications Services’ (GEN Docket No. 90–314; ET Docket No. 92–100), or any successor proceeding; but such term does not include any rural radio service as defined by the Commission and does not include the provision, by a local exchange carrier, of telephone exchange service by radio instead of by wire’’; and

(B) by striking subsection (gg).

(2) REGULATION OF INTRASTATE COMMUNICATIONS.—Section 2(b) of the Act (47 U.S.C. 152(b))

is amended by inserting ''and section 332'' immediately after ''inclusive,''.

(c) RULEMAKING SCHEDULE; EFFECTIVE DATE.—

(1) RULEMAKING REQUIRED.—Within 1 year after the date of enactment of this Act, the Commission shall—

(A) issue such modifications or terminations of its regulations as are necessary to implement the amendments made by subsection (a);

(B) make such other modifications of such regulations as may be necessary to promote parity in the regulatory treatment of providers of all commercial mobile services that offer services that are substantially similar; and

(C) include in such modifications and terminations such provisions as are necessary to provide for an orderly transition to the regulatory treatment required by such amendments.

(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective 1 year after such date of enactment, except that—

(A) section 332(c)(1)(A) of the Act, as added by such amendments, shall take effect upon such date of enactment; and

(B) any person that provides private land mobile services before such date of enactment shall continue to be treated as a provider of private land mobile service until 3 years after such date of enactment.

SEC. 410. DEADLINES FOR PCS ORDERS AND LICENSING.

The Commission shall—

(1) within 180 days after the date of enactment of this Act, issue a final report and order (A) in the matter entitled ''Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies'' (ET Docket No. 92–9); and (B) in the matter entitled ''Amendment of the Commission's Rules to Establish New Personal Communications Services'' (GEN Docket No. 90–314; ET Docket No. 92–100); and

(2) within 270 days after such date of enactment, commence issuing licenses and permits in the personal communications service.

SEC. 411. DEFINITIONS.

As used in this subtitle:

(1) The term ''allocation'' means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunication services.

(2) The term ''assignment'' means an authorization given to a station licensee to use specific frequencies or channels in a particular geographic area.

(3) The term ''commercial carrier'' means any entity that uses a facility licensed by the Federal Communications Commission pursuant to the Communications Act of 1934 for hire or for its own use, but does not include Federal Government stations licensed pursuant to section 305 of the Act (47 U.S.C. 305).

(4) The term ''Commission'' means the Federal Communications Commission.

(5) The term ''Secretary'' means the Secretary of Commerce.

(6) The term ''the Act'' means the Communications Act of 1934 (47 U.S.C. 151 et seq.).

Subtitle B—Vessel Tonnage Duties

SEC. 451. EXTENSION OF VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121), is amended—

(1) by striking ''and 1995,'' each place it appears and inserting in lieu thereof ''1995, 1996, 1997, and 1998,'';

(2) by striking ''place,'' and inserting in lieu thereof ''place;''; and

(3) by striking ''port, not, however, to include vessels in distress or not engaged in trade'' and inserting in lieu thereof ''port. However, neither duty shall be imposed on vessels in distress or not engaged in trade''.

(b) CONFORMING AMENDMENT.—The Act of March 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended by striking ''and 1995,'' and inserting in lieu thereof ''1995, 1996, 1997, and 1998.''.

(c) TECHNICAL CORRECTION.—

(1) CORRECTION.—Section 10402(a) of the Omnibus Budget Reconciliation Act of 1990 (104 Stat. 1388–398) is amended by striking ''in the second paragraph''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective on and after November 5, 1990.

TITLE V—COMMITTEE ON ENERGY AND NATURAL RESOURCES

Subtitle A—Recreation and Commercial Use Fees

SEC. 5001. ADMISSION FEES.

Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(a)), is amended:

(1) by inserting in the first sentence of the first paragraph after the words ''National Park System'' the words ''and for fiscal years 1994 through 1998, the Bureau of Land Management'' and by inserting after the words ''National Recreation Areas'' the words '', and for fiscal years 1994 through 1998, National Monuments, National Volcanic Monuments, National Scenic Areas, and areas of concentrated public use''; and

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

''(13) For the purposes of this subsection, 'areas of concentrated public use' shall meet each of the following criteria:

''(A) be managed primarily for outdoor recreation purposes;

''(B) provide facilities and services necessary to accommodate heavy public use;

''(C) contain at least one major recreation attraction including, but not limited to, a lake, river, historical site, or geologic feature; and

''(D) provide public access such that admission fees can be efficiently collected at one or more centralized locations.''.

SEC. 5002. RECREATION USE FEES.

(a) IN GENERAL.—The first sentence of section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(b)) is amended by striking out ''visitors' centers,'' and all that follows down through the period at the end thereof and inserting the following: ''scenic drives, or toilet facilities: *Provided,* That in no event shall there be any charge for the use of any campground not having a majority of the following: tent or trailer spaces, picnic tables, drinking water, access road, refuse containers, toilet facilities, fee collection by an employee or agent of the Federal agency operating the facility, reasonable visitor protection, and simple devices for containing a campfire (where campfires are permitted). For purposes of this subsection, the term 'specialized outdoor recreation site' includes but shall not be limited to campgrounds,

swimming sites, boat launch facilities, and managed parking lots.''.

(b) COSTS OF COLLECTION.—Section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)) is amended by inserting ''(A)'' after ''(1)'' and by adding the following at the end of paragraph (1):

''(B) Notwithstanding subparagraph (A), in any fiscal year, the Secretary of Agriculture and the Secretary of the Interior may withhold from the special account established under subparagraph (A) such portion of all receipts the fees collected in that fiscal year under this section as such Secretary determines to be equal to the additional fee collection costs for that fiscal year. The amounts so withheld shall be retained by the Secretary of Agriculture or the Secretary of the Interior and shall be available, without further appropriation, for expenditure by the Secretary concerned in the fiscal year in which collected to cover such additional fee collection costs. The Secretary concerned shall deposit in the special account established pursuant to subparagraph (A) any amounts so retained which remain unexpended and unobligated at the end of such fiscal year. For the purposes of this subparagraph, for any fiscal year,

the term 'additional fee collection costs' means those costs for personnel and infrastructure directly associated with the collection fees imposed under this section which exceed the costs for personnel and infrastructure directly associated with the collection of such fees during fiscal year 1993.''.

(c) COMMERICAL TOUR USE FEES.—(1) For fiscal years 1994 through 1998, in the case of each unit of the National Park System for which an admission fee is charged under section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4), the Secretary of the Interior shall establish, by October 1, 1993, a commercial tour use fee to be imposed on each vehicle entering the unit for the purpose of providing commercial tour services within the unit. Fee revenue derived from such commercial tour use fees shall be deposited into the special account established under section 4(i) of the Land and Water Conservation Fund Act of 1965.

(2) The Secretary shall establish the amount of fee per entry as follows:

(A) $25 per vehicle with a passenger capacity of 25 persons or less, and

(B) $50 per vehicle with a passenger capacity of more than 25 persons.

(3) The commercial tour use fee imposed under this subsection shall not apply to either of the following:

(A) Any vehicle transporting organized school groups or outings conducted for educational purposes by schools or other bona fide educational institutions.

(B) Any vehicle entering a park system unit pursuant to a contract issued under the Act of October 9, 1965 (16 U.S.C. 20–20g) entitled ''An Act relating to the establishment of concession policies in the areas administered by the National Park Service and for other purposes.''.

(d) NON-FEDERAL GOLDEN EAGLE PASSPORT SALES.—Section 4(a)(1)(A) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(a)(1)(A)) is amended by redesignating the paragraph as 4(a)(1)(A)(i) and adding at the end thereof the following new paragraph:

''(ii) For fiscal years 1994 through 1998, the Secretary of the Interior and the Secretary of Agriculture may authorize businesses, non-profit entities, and other organizations to sell and collect fees for the Golden Eagle Passport subject to such conditions as the Secretaries may jointly prescribe. The Secretaries shall develop detailed guidelines for promotional advertising of non-Federal

Golden Eagle Passport sales and shall monitor compliance with such guidelines. The Secretaries may authorize the sellers to maintain an inventory of Golden Eagle Passports for periods not to exceed 6 months, and to withhold amounts up to, but not exceeding 7 per centum of the fees of the gross fees collected from the sale of such passports as reimbursement for actual expenses of the sales.''.

SEC. 5003. RADIO AND TELEVISION COMMUNICATION SITE FEES.

(a) Notwithstanding any other provision of law, the Secretary of Agriculture and the Secretary of the Interior (hereinafter referred to as ''the Secretaries''), shall assess and collect charges for utilization of radio and television communications sites located on Federal lands administered by the Forest Service or the Bureau of Land Management at such rates as the Forest Service and the Bureau of Land Management shall establish or at such modified rates as are established pursuant to the provisions of subsection (b) of this section.

(b) The schedule of charges established under this section shall be reviewed by the Forest Service and the Bureau of Land Management on an annual basis, and shall be adjusted by the Forest Service and the Bureau of Land Management to reflect changes in the Consumer Price Index. Increases or decreases in charges shall apply

to all categories of charges, but any increase or decrease shall not total less than 3 percent or more than 5 percent of the charge assessed to the user in the preceding year. The Bureau of Land Management and the Forest Service shall transmit to the Congress notification of any such adjustment not later than 60 days before the effective date of such adjustment.

(1) Under the schedule of charges established under the section, if any radio or television communications site user is to be charged an amount that is greater than $1,000 more than the amount such site user pays to the Bureau of Land Management or the Forest Service as of January 1, 1993, then during the first year in which the schedule of charges is in effect, such site user shall pay an amount equal to the amount it paid to the Bureau of Land Management or the Forest Service as of January 1, 1993 plus $1,000. Each year thereafter, such site user shall pay the full amount under the schedule of charges, as modified pursuant to the subsection.

(2) Under the schedule of charges established under this section, if any radio or television communications site user is to be charged an amount that is less than the amount such site user paid to the

Bureau of Land Management or the Forest Service as of January 1, 1993, such site user shall continue to pay the higher amount until such time as the charge to the site user in the schedule of charges equals or exceeds that amount, as modified pursuant to this subsection.

(c)(1) If the radio or television communications site user is permitted under the terms of its site use authorization from the Bureau of Land Management or the Forest Service to grant access to the site to additional users, then the radio or television communications site user shall pay annually to the Bureau of Land Management or the Forest Service an amount equal to 25 percent of the gross income it receives from each such additional user during that year.

(2) Authorizations to radio and television communications site users shall require such site users to provide the Bureau of Land Management or the Forest Service with a certified list which identifies all additional users of such sites and all gross revenues received from such additional users. The Bureau of Land Management and the Forest Service shall not require any additional user of a radio or television communications site to obtain a separate authorization to use such a site.

(d)(1) The Secretaries shall prescribe appropriate rules and regulations to carry out the provisions of this section.

(2) Ten years after the date of enactment of this section, the Secretaries shall establish a broad-based advisory group, including representatives from the radio and television broadcast industry, to review the schedule of charges and other acceptable criteria for determining fair market value for radio and television communications site users. The advisory group shall report its findings to the Congress no later than 1 year after it is established.

(e)(1) Until modified pursuant to subsection (b) of this section, the schedule of charges for television communications site users which the Secretaries shall prescribe pursuant to subsection (a) of this section shall be as listed in exhibit 3, (television rental fee schedule) in the report of the radio and television broadcast use fee advisory committee dated December 1992.

(2) Until modified pursuant to subsection (b) of this section, the schedule of charges for radio communications site users which the Secretaries shall prescribe pursuant to subsection (a) of this section shall be as listed in exhibit 4, (radio rental fee schedule) in the report of the radio and television broadcast use fee advisory committee dated December 1992.

(f)(1) The Secretaries are directed to jointly establish a broad-based advisory group comprised of representatives from the non-broadcast communications industry (users of both private and public communication sites) and the two agencies to review recommendations on acceptable criteria for determining fair market values and next best alternative use.

(2) The advisory group shall review the methodology used in any previous studies and reach concurrence on such methodology.

(3) The advisory group shall also assess the validity of the results of such studies, taking into account all reasonable options for the establishment of fair market values and next best alternative use.

(4) The advisory group shall report its findings to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives within one year after the enactment of this Act.

Subtitle B—Hardrock Mining Claim Maintenance Fee

SEC. 5101. FEE.

(a) Except as provided in section 2511(e)(2) of the Energy Policy Act of 1992, for each unpatented mining claim, mill or tunnel site on federally owned lands, whether

located before or after enactment of this Act, each claimant shall pay to the Secretary of the Interior, on or before August 31 of each year, for years 1994 through 1998, a claim maintenance fee of $100 per claim to hold such unpatented mining claim, mill or tunnel site for the assessment year beginning at noon on the next day, September 1. Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28–28e) and the related filing requirements contained in section 314(a) and (c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a) and (c)).

(b)(1) The claim maintenance fee required under this section shall be waived for a claimant who certifies in writing to the Secretary that on the date the payment was due, the claimant and all related parties—

(A) held not more than 10 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands; and

(B) have performed assessment work required under the Mining Law of 1872 (30 U.S.C. 28–28e) to maintain the mining claims held by the claimant and such related parties for the assessment year ending on noon of September 1 of the calendar year

in which payment of the claim maintenance fee was due.

(2) For purposes of paragraph (1), with respect to any claimant, the term ''all related parties'' means—

(A) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the claimant; or

(B) a person affiliated with the claimant, including—

(i) a person controlled by, controlling, or under common control with the claimant; or

(ii) a subsidiary or parent company or corporation of the claimant.

(c)(1) The Secretary shall adjust the fees required by this section to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor every 5 years after the date of enactment of this Act, or more frequently if the Secretary determines an adjustment to be reasonable.

(2) The Secretary shall provide claimants notice of any adjustment made under this subsection not later than July 1 of any year in which the adjustment is made.

(3) A fee adjustment under this section shall begin to apply the calendar year following the calendar year in which it is made.

(d) Monies received under this section shall be deposited as miscellaneous receipts in the Treasury.

SEC. 5102. LOCATION.

(a) Notwithstanding any provision of law, for every unpatented mining claim, mill or tunnel site located after the date of enactment of this subtitle and before September 30, 1998, the locator shall, at the time the location notice is recorded with the Bureau of Land Management, pay to the Secretary of the Interior a location fee, in addition to the fee required by section 5101, of $25.00 per claim.

(b) Moneys received under this section shall be deposited as miscellaneous receipts in the Treasury.

SEC. 5103. CO-OWNERSHIP.

The co-ownership provisions of the Mining Law of 1872 (30 U.S.C. 28–28e) will remain in effect except that the annual claim maintenance fee, where applicable, shall replace applicable assessment requirements and expenditures.

SEC. 5104. FAILURE TO PAY.

Failure to pay the claim maintenance fee as required by section 5101 of this subtitle shall conclusively constitute a forfeiture of the unpatented mining claim, mill or tunnel site by the claimant and the claim shall be deemed null and void by operation of law.

SEC. 5105. OTHER REQUIREMENTS.

(a) Nothing in this subtitle shall change or modify the requirements of section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), or the requirements of section 314(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(c)) related to filings required by section 314(b), which remain in effect.

(b) The third sentence of 2324 of the Revised Statutes (30 U.S.C. 28) is amended by inserting after ''On each claim located after the 10th day of May, 1972,'' the following: ''that is eligible for a waiver under section 5101 of the Omnibus Budget Reconciliation Act of 1993,''.

SEC. 5106. REGULATIONS.

The Secretary of the Interior shall promulgate rules and regulations to carry out the purposes of this subtitle as soon as practicable after the date of enactment of this subtitle.

Subtitle C—Commonwealth of Northern Mariana Islands Agreement

SEC. 5201. COMMONWEALTH OF NORTHERN MARIANA ISLANDS AGREEMENT.

Public Law 94–241 (90 Stat. 263), as amended, is further amended by striking ''law'' in subsection 4(b) and inserting in lieu thereof the following: ''law: *Provided,*

That for fiscal years 1994 through 1998, payments shall be limited to the amounts and for the purposes set forth in the Agreement of the Special Representatives on Future Federal Financial Assistance of the Northern Mariana Islands, executed on December 17, 1992 between the special representative of the President and the special representatives of the Governor of the Northern Mariana Islands: *Provided further,* That after 1998, the amount shall continue at the annual amount of $27.720 million.

Subtitle D—Mineral Receipts

SEC. 5301. AMENDMENT TO THE MINERAL LEASING ACT.

Section 35 of the Mineral Leasing Act, as amended (30 U.S.C. 191) is amended as follows:

(1) by deleting the last sentence and redesignating the remaining language as subsection (a);

(2) by amending subsection (a) by inserting the words ''and, subject to the provisions of subsection (b),'' between the words ''United States;'' and ''50 per centum'';

(3) by adding a new subsection (b) as follows:

''(b)(1) In calculating the amount to be paid to States during any fiscal year under this section or under any other provision of law requiring payment to a State of any revenues derived from the leasing of any onshore lands or interest in land owned by the United States for the

production of the same types of minerals leasable under this Act or of geothermal steam, 50 per centum of the portion of the enacted appropriation of the Department of the Interior and any other agency during the preceding fiscal year allocable to the administration of all laws providing for the leasing of any onshore lands or interest in land owned by the United States for the production of the same types of minerals leasable under this Act or of geothermal steam, and in enforcing such laws, shall be deducted from the receipts derived under those laws in approximately equal amounts each month (subject to paragraph (4)) prior to the division and distribution of such receipts between the States and the United States.

''(2) The proportion of the deduction provided in paragraph (1) allocable to each State shall be determined by dividing the monies disbursed to the State during the preceding fiscal year derived from onshore mineral leasing referred to in paragraph (1) in that State by the total money disbursed to States during the preceding fiscal year from such onshore mineral leasing in all States.

''(3) In the event the deduction apportioned to any State under this subsection exceeds 50 per centum of the Secretary of the Interior's estimate of the amounts attributable to onshore mineral leasing referred to in paragraph (1) within that State during the preceding fiscal year, the

deduction from receipts received from leases in that State shall be limited to such estimated amounts and the total amount to be deducted from such onshore mineral leasing receipts shall be reduced accordingly.

''(4) If the amount otherwise deductible under this subsection in any month from the portion of receipts to be distributed to a State exceeds the amount payable to the State during that month, any amount exceeding the amount payable shall be carried forward and deducted amounts payable to the State in subsequent months. If any amount remains to be carried forward at the end of the fiscal year, such amount shall not be deducted from any disbursements in any subsequent fiscal year.

''(5) All deductions to be made pursuant to this subsection shall be made in full during the fiscal year in which such deductions were incurred.

''(6) All amounts deducted under this subsection from monies otherwise payable to a State shall be credited to miscellaneous receipts in the Treasury.''.

SEC. 5302. CONFORMING AMENDMENTS.

(a) Section 6 of the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 355), is amended by adding the following words ''Subject to the provisions of 30 U.S.C. 191(b),'' at the beginning of the first sentence.

(b) Section 5(a) of the Geothermal Steam Act, as amended (30 U.S.C. 1019), is amended by adding the words ''Subject to the provisions of 30 U.S.C. 191(b),'' at the beginning of that section.

TITLE VI—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SEC. 6001. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking ''September 30, 1995'' and inserting ''September 30, 1998''.

SEC. 6002. CORPS OF ENGINEERS RECREATION USER FEES.

(a) IN GENERAL.—Section 210 of the Flood Control Act of 1968 (16 U.S.C. 460d–3) is amended—

(1) by inserting ''(a)'' before ''No entrance'';

(2) by striking the second sentence; and

(3) by adding at the end the following new subsection:

''(b)(1) Except as provided in paragraph (2), notwithstanding section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(b)), the Secretary of the Army may charge fees for the use of developed

recreation sites and facilities, including campsites, swimming beaches, and boat launching ramps.

''(2) The Secretary may not charge fees for the use or provision of drinking water, wayside exhibits, general purpose roads, overlook sites, toilet facilities, or general visitor information.

''(3) Fees collected under this subsection shall be deposited into the special account established in the Treasury of the United States for the Army Corps of Engineers under section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(i)).''.

(b) CONFORMING AMENDMENT.—Section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(b)) is amended by striking the second sentence.

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

SEC. 7000. AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES; TABLE OF CONTENTS.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amend-

ment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this title, the terms ''OBRA–1986'', ''OBRA–1987'', ''OBRA–1989'', and ''OBRA–1990'' refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), and the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), respectively.

(c) REFERENCES TO OMNIBUS BUDGET RECONCILIATION ACT OF 1993.—Any reference in this title (or in any amendment made by this title) to the Omnibus Budget Reconciliation Act of 1993 shall be deemed to be a reference to this title.

(d) TABLE OF CONTENTS.—The table of contents of 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 facilities.
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.

Subtitle A—Medicare

PART I—PROVISIONS RELATING TO PART A

SEC. 7101. PAYMENT UPDATES FOR INPATIENT HOSPITAL SERVICES.

(a) REDUCTION.—

(1) PPS HOSPITALS.—

(A) IN GENERAL.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(i) in the matter preceding subclause (I), by striking ''fiscal year'' and inserting ''particular time period'',

(ii) in subclause (VIII), by inserting ''and the 3 succeeding months'' after ''fiscal year 1993'',

(iii) in subclause (IX)—

(I) by striking ''fiscal year'',

(II) by inserting ''minus 2.18 percentage points'' after ''market bas-

ket percentage increase'' the first place it appears, and

(III) by striking ''plus 1.5 percentage points'' and inserting ''minus .68 percentage point'',

(iv) in subclause (X)—

(I) by striking ''fiscal year'',

(II) by inserting ''minus 2.27 percentage points'' after ''market basket percentage increase'', and

(III) by striking ''and'' at the end,

(v) in subclause (XI)—

(I) by striking ''for fiscal year 1996 and each subsequent fiscal year'' and inserting ''for 1996'',

(II) by inserting ''minus 2.0 percentage points'' after ''market basket percentage increase'', and

(III) by striking the period and inserting a comma, and

(vi) by adding at the end the following new subclauses:

''(XII) for 1997, the market basket percentage increase minus 1.0 percentage point for hospitals in all areas, and

''(XIII) for 1998 and each subsequent year, the market basket percentage increase for hospitals in all areas.''.

(B) ADJUSTMENT OF LABOR AND NON-LABOR PORTIONS OF STANDARDIZED AMOUNTS.—Section 1886(d)(3)(A) (42 U.S.C. 1395ww(d)(3)(A)) is amended by adding at the end the following new clause:

''(vi) For discharges occurring on or after January 1, 1995, the Secretary shall adjust the ratio of the labor portion to non-labor portion of each average standardized amount to equal such ratio for the national average standardized amount.''.

(2) OTHER HOSPITALS.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) by striking '', (C), (D),''

(B) by striking ''and'' at the end of subclause (III),

(C) by striking subclause (IV) and inserting the following new subclauses:

''(IV) fiscal years 1988 through 1993 and the 3 succeeding months, is the market basket percentage increase,

''(V) 1994, is 75 percent of the difference between the market basket percentage increase and 1.0 percentage point,

''(VI) 1995 through 1997, is the market basket percentage increase minus 1.0 percentage points, and

''(VII) 1998 and each subsequent year, is the market basket percentage increase.''.

(3) SOLE COMMUNITY AND MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.—

(A) IN GENERAL.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended by adding at the end the following new clause:

''(iv) For purposes of subparagraphs (C) and (D), the applicable percentage increase for discharges occurring during—

''(I) cost reporting periods beginning in fiscal year 1986 through fiscal year 1993 and the 3 succeeding months, is the increase specified in clause (ii),

''(II) for 1994, is 75 percent of the difference between the market basket percentage increase and 2.0 percentage points,

''(III) for 1995, is the market basket percentage increase, minus 2.0 percentage points, and

''(IV) for 1996 and each subsequent year, is the increase described in clause (i) for such year.

For purposes of subclause (I), the annual update applied for a cost reporting period beginning during calendar year 1993 is adjusted to reflect only the time period occurring from the beginning of the hospital's cost reporting period through December 31, 1993.''.

(B) TARGET AMOUNT ADJUSTMENT.—

(i) SOLE COMMUNITY HOSPITAL.—Section 1886(b)(3)(C) (42 U.S.C. 1395ww(b)(3)(C)) is amended—

(I) in clause (i)(II), by striking ''or'',

(II) in clause (ii)—

(aa) by inserting ''or portion of a cost reporting period occurring before December 31, 1993,'' before ''the target amount'',

(bb) by striking ''subparagraph (B)(ii)'' and inserting ''subparagraph (B)(iv)'', and

(cc) by striking the period at the end and inserting a comma, and

(dd) by adding at the end the following new clauses:

''(iii) with respect to discharges occurring in 1994, the target amount for the cost reporting period beginning in 1993 increased by the applicable percentage increase under subparagraph (B)(iv), or

''(iv) with respect to discharges occurring in 1995 and each subsequent year, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).''.

(ii) MEDICARE-DEPENDENT, SMALL RURAL HOSPITAL.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(I) in clause (i)(II), by striking ''or'',

(II) in clause (ii)—

(aa) by inserting ''or portion of a cost reporting period occur-

ring before December 31, 1993,'' before ''the target amount'',

(bb) by striking ''subparagraph (B)(ii)'' and inserting ''subparagraph (B)(iv)'', and

(cc) by striking the period at the end and inserting '', or'' and

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

''(iii) with respect to discharges occurring in 1994, the target amount for the cost reporting period beginning in 1993 increased by the applicable percentage increase under subparagraph (B)(iv).''.

(4) DELAY IN INCREASE IN DISPROPORTIONATE SHARE PAYMENTS FOR CERTAIN URBAN HOSPITALS.—Section 1886(d)(5)(F)(vii)(II) (42 U.S.C. 1395ww(d)(5)(F)(vii)(II)) is amended—

(A) in subdivision (b), by striking ''September 30, 1993'' and inserting ''December 31, 1993'', and

(B) in subdivision (c), by striking ''October 1, 1993'' and inserting ''January 1, 1994''.

(5) REGIONAL FLOOR EXTENDED.—Section 1886(d)(1)(A) (42 U.S.C. 1395ww(d)(1)(A)) is amended—

(i) in clause (ii), by striking ''or'' at the end;

(ii) in clause (iii), by striking ''September 30, 1993, '' and inserting ''December 31, 1993''; and

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

''(iv) beginning on and after January 1, 1994, is equal to the national adjusted DRG prospective payment rate determined under paragraph (3) for such discharges.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1886(b)(3)(B)(iii) (42 U.S.C. 1395ww(b)(3)(B)(iii)) is amended—

(A) by inserting ''beginning in'' after ''cost reporting periods'',

(B) by striking ''fiscal year'' the first place it appears and inserting ''particular time period'',

(C) by striking ''or fiscal year'' the first and second place it appears, and

(D) by striking ''cost reporting period or fiscal year'' and inserting ''period''.

(2) The first sentence in the matter in section 1886(d)(3) (42 U.S.C. 1395ww(d)(3)) preceding

subparagraph (A) is amended by inserting ''or calendar'' after ''fiscal'' the first place it appears.

(3) Section 1886(d)(3)(A)(ii) (42 U.S.C. 1395ww(d)(3)(A)(ii)) is amended—

(A) by striking ''1994,'' and inserting ''1992, in the 15-month period beginning on October 1, 1992, and in 1994,'', and

(B) by striking ''fiscal year'' the second and third place it appears and inserting ''time period''.

(4) Section 1886(d)(3)(A)(iii) (42 U.S.C. 1395ww(d)(3)(A)(iii)) is amended by striking ''the fiscal year beginning on October 1, 1994'' and inserting ''1995''.

(5) Section 1886(d)(3)(A)(iv) (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(A) by striking ''fiscal year beginning on or after October 1, 1995'' and inserting ''year beginning on or after January 1, 1996'',

(B) by striking ''and within each region'', and

(C) by striking ''fiscal'' each place it appears.

(6) Section 1886(d)(3)(D) (42 U.S.C. 1395ww(d)(3)(D)) is amended—

(A) by inserting ''or calendar'' after ''fiscal'' each place it appears, and

(B) by inserting ''for each fiscal year through 1993'' after ''and shall establish''.

(7) Section 1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)) is amended—

(A) in the second sentence, by striking ''October 1, 1993'' and inserting ''January 1, 1994'', and

(B) in the last sentence, by inserting ''or calendar'' after ''fiscal'' the first and last place it appears.

(8)(A) Section 1886(d)(4)(C)(iii) (42 U.S.C. 1395ww(d)(4)(C)(iii)) is amended—

(i) by inserting ''or calendar'' after ''fiscal'' the first place it appears, and

(ii) by deleting ''fiscal'' the third place it appears.

(B) The requirements of paragraphs (3)(E) and (4)(C)(iii) of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)(4)(C)(iii)) shall be applied on a 15-month basis for the period beginning on October 1, 1992, and ending on December 31, 1993.

(9) Section 1886(d)(4)(E) is (42 U.S.C. 1395ww(d)(4)(E)) is amended by striking ''October 1, 1993'' and inserting ''January 1, 1994''.

(10)(A) Section 1886(d)(5)(A)(iv) (42 U.S.C. 1395ww(d)(5)(A)(iv)) is amended by inserting ''or calendar'' after ''fiscal''.

(B) The requirement of section 1886(d)(5)(A)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(A)(iv)) shall be applied on a 15-month basis for the period beginning on October 1, 1992, and ending on December 31, 1993.

(11) Section 1886(d)(5)(B)(i) (42 U.S.C. 1395ww(d)(5)(B)(i)) is amended by striking ''or, if applicable, the amount determined under paragraph (1)(A)(iii)'' and inserting ''or, the amount determined under paragraphs (1)(A)(iii) or (1)(A)(iv), as applicable''.

(12) Section 1886(d)(5)(E)(ii) (42 U.S.C. 1395ww(d)(5)(E)(ii)) is amended by inserting ''or calendar'' after ''fiscal''.

(13) Section 1886(d)(6) (42 U.S.C. 1395ww(d)(5)(6)) is amended by striking ''the September 1 before each fiscal year (beginning with fiscal year 1984)'' and inserting ''December 1 each year''.

(14) The matter in section 1886(d)(9)(A) (42 U.S.C. 1395ww(d)(9)(A)) preceding clause (i) is amended by striking ''fiscal year'' and inserting ''particular time period''.

(15) Section 1886(d)(9)(C)(i) (42 U.S.C. 1395ww(d)(9)(C)(i)) is amended—

(A) by striking ''fiscal year'' the first place it appears and inserting ''time period'', and

(B) by striking ''fiscal years'' and inserting ''time periods''.

(16) Subparagraphs (A) and (B) of section 1886(e)(3) (42 U.S.C. 1395ww(e)(3)) are each amended by striking ''that fiscal year'' and inserting ''the coming fiscal or calendar year''.

(17) The first sentence of section 1886(e)(4)(A) (42 U.S.C. 1395ww(e)(4)(A)) is amended by inserting ''or calendar'' after ''fiscal'' the first and last place it appears.

(18) Section 1886(e)(4)(B) (42 U.S.C. 1395ww(e)(4)(B)) is amended by inserting ''or calendar'' after ''fiscal''.

(19) Section 1886(e)(5)(A) (42 U.S.C. 1395ww(e)(5)(A)) is amended by striking ''that fiscal year'' and inserting ''the coming fiscal or calendar year''.

(20) The second and third sentences of section 1886(e)(5) (42 U.S.C. 1395ww(e)(5)) are each amended by inserting ''or calendar'' after ''fiscal'' each place it appears.

SEC. 7102. PAYMENT FOR INDIRECT COSTS OF MEDICAL EDUCATION.

Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

''(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c × (((1 + r) to the nth power) –1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405. For discharges occurring on or after—

''(I) May 1, 1986, and before January 1, 1994, 'c' is equal to 1.89,

''(II) January 1, 1994, and before January 1, 1996, 'c' is equal to 1.728, and

''(III) January 1, 1996, 'c' is equal to 1.605.''.

SEC. 7103. LOSS OF REGIONAL REFERRAL CENTER STATUS.

(a) CONTINUATION OF OTHER URBAN PAYMENT RATE THROUGH CALENDAR YEAR 1994.—Effective on the date of the enactment of this Act, any hospital that was classified as a regional referral center under section

1886(d)(5)(C) of the Social Security Act as of September 30, 1992, shall continue to be paid under this subsection the standardized amount for hospitals located in other urban areas for discharges occurring before the earlier of—

(1) January 1, 1995, or

(2) the reclassification of such hospital as an urban hospital under section 1886(d)(10)(C) of such Act.

(b) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—If any hospital fails to qualify as a rural referral center under section 1886(d)(5)(C) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993 or fiscal year 1994, the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) if the hospital declines such reclassification, administer the Social Security Act (other than sec-

tion 1886(d)(8)(D)) for such fiscal year as if the decision by the Review Board had not occurred.

(c) REQUIRING LUMP-SUM RETROACTIVE PAYMENT FOR HOSPITALS LOSING CLASSIFICATION.—

(1) IN GENERAL.—In the case of any regional referral center described in subsection (a), the Secretary of Health and Human Services shall make a lump-sum payment to the center equal to the difference between—

(A) the aggregate payment made to the center under section 1886 of the Social Security Act (excluding outlier payments under subsection (d)(5)(A) of such section) during the period of applicability described in paragraph (2), and

(B) the aggregate payment that would have been made to the center under such section if, during the period of applicability, the center had been paid as if subsection (a) of this section had been in effect.

(2) PERIOD OF APPLICABILITY.—In paragraph (1), the ''period of applicability'' is the period that begins on October 1, 1992, and ends on the date of the enactment of this Act.

SEC. 7104. MEDICARE-DEPENDENT, SMALL RURAL HOSPITAL PAYMENT EXTENSION.

(a) EXTENSION OF ADDITIONAL PAYMENTS.—

(1) IN GENERAL.—Section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i)—

(i) by inserting ''(or portion thereof)'' after ''cost reporting period'' in the matter preceding subclause (I), and

(ii) by striking ''March 31, 1993,'' and all that follows and inserting: ''January 1, 1995, in the case of a subsection (d) hospital which is a medicare-dependent, small rural hospital, payment under paragraph (1)(A) shall be equal to the sum of the amount determined under clause (ii) and the amount determined under clause (iii) or (iv) of paragraph (1)(A).'';

(B) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv); and

(C) by inserting after clause (i) the following new clause:

''(ii) The amount determined under this clause is—

''(I) for discharges occurring during the first 3 12-month cost reporting periods that begin on or after April 1, 1990, the amount by which the hos-

pital's target amount for the cost reporting period (as defined in subsection (b)(3)(D)) exceeds the amount determined under clause (iii) or (iv) paragraph (1)(A); and

''(II) for discharges occurring during any subsequent cost reporting period (or portion thereof), 50 percent of the amount by which the hospital's target amount for the cost reporting period (as defined in subsection (b)(3)(D)) exceeds the amount determined under clause (iii) or (iv) of paragraph (1)(A).''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective as if included in the amendment made by section 6003(f) of OBRA–1989.

(b) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—If any hospital fails to qualify as a medicare-dependent, small rural hospital under section 1886(d)(5)(G)(i) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993 or fiscal year 1994 the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) if the hospital declines such reclassification, administer the Social Security Act (other than section 1886(d)(8)(D)) for such fiscal year as if the decision by the Review Board had not occurred.

(c) REQUIRING LUMP-SUM RETROACTIVE PAYMENT.—

(1) IN GENERAL.—In the case of a hospital treated as a medicare-dependent, small rural hospital under section 1886(d)(5)(G) of the Social Security Act, the Secretary of Health and Human Services shall make a lump-sum payment to the hospital equal to the difference between—

(A) the aggregate payment made to the hospital under section 1886 of such Act (excluding outlier payments under subsection (d)(5)(A) of such section) during the period of applicability described in paragraph (2), and

(B) the aggregate payment that would have been made to the hospital under such section if, during the period of applicability, sec-

tion 1886(d)(5)(G) of such Act had been applied as if—

(i) the reference in clause (i) to ''March 31, 1993,'' had been deemed a reference to ''January 1, 1995,''; and

(ii) the amendments made by subsection (a) had been in effect.

(2) PERIOD OF APPLICABILITY.—In paragraph (1), the ''period of applicability'' is, with respect to a hospital, the period that begins on the first day of the hospital's first 12-month cost reporting period that begins after April 1, 1992, and ends on the date of the enactment of this Act.

SEC. 7105. ELIMINATION OF RETURN ON EQUITY FOR PROPRIETARY SKILLED NURSING FACILITIES.

(a) REPEAL OF REQUIREMENT FOR RETURN ON EQUITY.—(1) Section 1861(v)(1)(B) (42 U.S.C. 1395x(v)(1)(B)) is amended to read as follows:

''(B) In the case of extended care services, the regulations under subparagraph (A) shall not include provision for specific recognition of a return on equity capital.''.

(2) Section 1878(f)(2) (42 U.S.C. 1395oo(f)(2)) is amended by striking ''the rate of return on equity capital established by regulation pursuant to section 1861(v)(1)(B) and in effect at the time'' and inserting

''the average of the rates of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund for each of the months any part of which is included in the cost reporting period in which''.

(3) Section 1881(b)(2)(C) (42 U.S.C. 1395rr(b)(2)(C)) is amended by striking all that follows ''capital'' up to the period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to portions of cost reporting periods occurring on or after October 1, 1993.

SEC. 7106. EXTENSION OF 10 PERCENT REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES.

The second sentence of section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by striking ''1995'' and inserting ''1998''.

SEC. 7107. SKILLED NURSING FACILITY COST LIMITS.

(a) SKILLED NURSING FACILITY COST LIMITS.—

(1) IN GENERAL.—Section 1888(a) (42 U.S.C. 1395yy(a)) is amended by striking ''112 percent of the mean'' and inserting ''110 percent of the median'' each place it appears.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1993.

(b) SKILLED NURSING FACILITY WAGE INDEX.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall begin to collect data on employee compensation and paid hours of employment in skilled nursing facilities for the purpose of constructing a skilled nursing facility wage index adjustment to the routine service cost limits required under section 1888(a) of the Social Security Act.

(c) PROPAC REPORT.—The Prospective Payment Assessment Commission shall, by March 31, 1994, study and report to the Congress on the impact of applying the routine per diem cost limits for skilled nursing facilities on a regional basis.

SEC. 7108. PAYMENTS FOR HOSPICE CARE.

Section 1814(i)(1)(C) (42 U.S.C. 1395f(i)(1)(C)) is amended—

(1) in clause (ii), by striking ''during a subsequent fiscal year'' and inserting ''during fiscal years 1991, 1992, and 1993 (and the 3 succeeding months)''; and

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

''(iii) With respect to routine home care and other services included in hospice care furnished during calendar years 1994, 1995, 1996, 1997, and 1998, the payment

rates for such care and services shall be the payment rates in effect under this subparagraph during the previous calendar year increased by the market basket percentage increase (as so defined) otherwise applicable to discharges occurring in the calendar year, reduced by 1 percentage point.''.

PART II—PROVISIONS RELATING TO PART B

Subpart A—Physicians' Services

SEC. 7201. REDUCTION IN DEFAULT UPDATE FOR CONVERSION FACTOR FOR 1994.

Section 1848(d)(3)(A) (42 U.S.C. 1395w–4(d)(3)(A)) is amended—

(1) in clause (i), by striking ''clause (iii)'' and inserting ''clauses (iii) and (iv)'', and

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

''(iv) ADJUSTMENT IN PERCENTAGE INCREASE FOR 1994.—In applying clause (i) for services (other than primary care services) furnished in 1994, the percentage increase in the appropriate update index shall be reduced by—

''(I) 8 percentage points for surgical services (as defined for purposes of subsection (j)(1)), and

"(II) 4.4 percentage points for other services.".

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.

(a) REDUCTION IN PERFORMANCE STANDARD FACTOR.—Section 1848(f)(2)(B) (42 U.S.C. 1395w–4(f)(2)(B)) is amended to read as follows:

"(B) PERFORMANCE STANDARD FACTOR.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—Except as provided in clause (ii), the performance standard factor—

"(I) for 1993 is 2 percentage points,

"(II) for 1994 is 3½ percentage points, and

"(III) for each succeeding year is 4 percentage points.

"(ii) PRIMARY CARE SERVICES.—The performance standard factor for primary

care services (as defined in section 1842(i)(4)) is 0 percentage points.''.

(b) INCREASE IN MAXIMUM REDUCTION PERMITTED IN DEFAULT UPDATE.—Section 1848(d)(3)(B)(ii) (42 U.S.C. 1395w–4(d)(3)(B)(ii)) is amended—

(1) in subclause (II), by striking ''or 1995'', and

(2) in subclause (III), by striking ''3'' and inserting ''5''.

(c) CLASSIFICATION OF PRIMARY CARE SERVICES AS SEPARATE CATEGORY OF SERVICES.—

(1) IN GENERAL.—Section 1848(j)(1) (42 U.S.C. 1395w–4(j)(1)) is amended by inserting '', primary care services (as defined in section 1842(i)(4)),'' after ''Secretary)''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply—

(A) to volume performance standard rates of increase established under section 1848(f) of the Social Security Act for fiscal years beginning on or after October 1, 1993, and

(B) to updates in the conversion factors for physicians' services established under section 1848(d) of such Act for physicians' serv-

ices to be furnished in calendar years beginning after 1995.

SEC. 7203. PHASED-IN REDUCTION IN PRACTICE EXPENSE RELATIVE VALUE UNITS FOR CERTAIN SERVICES.

(a) IN GENERAL.—Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)) is amended by adding at the end the following new subparagraph:

''(E) REDUCTION IN PRACTICE EXPENSE RELATIVE VALUE UNITS FOR CERTAIN SERVICES.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary shall reduce the practice expense relative value units applied to services described in clause (iii) furnished in—

''(I) 1994, by 25 percent of the number by which the number of practice expense relative value units (determined for 1994 without regard to this subparagraph) exceeds the number of work relative value units determined for 1994,

''(II) 1995, by an additional 25 percent of such excess, and

"(III) 1996, by an additional 25 percent of such excess.

"(ii) FLOOR ON REDUCTIONS.—The practice expense relative value units for a physician's service shall not be reduced under this subparagraph to a number less than 110 percent of the number of work relative value units.

"(iii) SERVICES COVERED.—For purposes of clause (i), the services described in this clause are physicians' services that are not described in clause (iv) and for which—

"(I) there are work relative value units, and

"(II) the number of practice expense relative value units (determined for 1994) exceeds 110 percent of the number of work relative value units (determined for such year).

"(iv) EXCLUDED SERVICES.—For purposes of clause (iii), the services described in this clause are services which the Secretary determines at least 75 per-

cent of which are provided under this title in an office setting.''.

(b) DEVELOPMENT OF RESOURCE-BASED METHODOLOGY FOR PRACTICE EXPENSES.—

(1) The Secretary of Health and Human Services shall develop a methodology for implementing in 1997 a resource-based system for determining practice expense relative value units for each physician's service.

(2) The Secretary shall transmit a report by June 30, 1996, on the methodology developed under paragraph (1) to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. The report shall include a presentation of data utilized in developing the methodology and an explanation of the methodology.

SEC. 7204. LIMITATION ON PAYMENT FOR THE ANESTHESIA CARE TEAM.

(a) LIMIT ON PAYMENT TO A PHYSICIAN FOR MEDICAL DIRECTION.—

(1) IN GENERAL.—Section 1848(a) (42 U.S.C. 1395w–4(a)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULE FOR MEDICAL DIRECTION.—

"(A) IN GENERAL.—With respect to physicians' services furnished on or after January 1, 1994, and consisting of medical direction of 2, 3, or 4 concurrent anesthesia cases, the fee schedule amount to be applied shall not exceed one-half of the amount described in subparagraph (B).

"(B) AMOUNT.—The amount described in this subparagraph, for a physician's medical direction of the performance of anesthesia services, is the following percentage of the fee schedule amount otherwise applicable under this section if the anesthesia services were personally performed by the physician alone:

"(i) For services furnished during 1994, 120 percent.

"(ii) For services furnished during 1995, 115 percent.

"(iii) For services furnished during 1996, 110 percent.

"(iv) For services furnished during 1997, 105 percent.

"(v) For services furnished after 1997, 100 percent.".

(2) ELIMINATION OF REDUCTION FOR MEDICAL DIRECTION OF MULTIPLE NURSE ANESTHETISTS.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking paragraph (13).

(b) PAYMENT TO A CERTIFIED REGISTERED NURSE ANESTHETIST FOR MEDICALLY DIRECTED SERVICES.—Subparagraph (B) of section 1833(l)(4) (42 U.S.C. 1395l(l)(4)) is amended—

(1) in clause (i), by inserting "and before January 1, 1994," after "1991,";

(2) in clause (ii)—

(A) by adding "and" at the end of subclause (II),

(B) by striking the comma at the end of subclause (III) and inserting a period, and

(C) by striking subclauses (IV) through (VII); and

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

"(iii) In the case of services of a certified registered nurse anesthetist who is medically directed or medically supervised by a physician which are furnished on or after January 1, 1994, the fee schedule amount shall be 50 per-

cent of the amount described in section 1848(a)(5)(B) with respect to the physician.''.

SEC. 7205. SEPARATE PAYMENT FOR INTERPRETATION OF ELECTROCARDIOGRAMS.

(a) IN GENERAL.—Paragraph (3) of section 1848(b) (42 U.S.C. 1395w–4(b)) is amended to read as follows:

''(3) TREATMENT OF INTERPRETATION OF ELECTROCARDIOGRAMS.—The Secretary—

''(A) shall make separate payment under this section for the interpretation of electrocardiograms performed or ordered to be performed as part of or in conjunction with a visit to or a consultation with a physician, and

''(B) shall adjust the relative values established for visits and consultations under subsection (c) so as not to include relative value units for interpretations of electrocardiograms in the relative value for visits and consultations.''.

(b) ASSURING BUDGET NEUTRALITY.—Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)), as amended by section 7203(a), is further amended by adding at the end the following new subparagraph:

''(F) BUDGET NEUTRALITY ADJUSTMENTS.—The Secretary—

''(i) shall reduce the relative values for all services (other than anesthesia services) established under this paragraph (and, in the case of anesthesia services, the conversion factor established by the Secretary for such services) by such percentage as the Secretary determines to be necessary so that, beginning in 1996, the amendment made by section 7205(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section that exceed the amount of such expenditures that would have been made if such amendment had not been made, and

''(ii) shall reduce the amounts determined under subsection (a)(2)(B)(ii)(I) by such percentage as the Secretary determines to be required to assure that, taking into account the reductions made under clause (i), the amendment made by section 7205(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section in 1994 that exceed the amount of such expenditures

that would have been made if such amendment had not been made.''.

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(1) in subsection (a)(2)(B)(ii)(I), by inserting ''and as adjusted under subsection (c)(2)(F)(ii)'' after ''for 1994'';

(2) in subsection (c)(2)(A)(i), by adding at the end the following: ''Such relative values are subject to adjustment under subparagraph (F)(i).''; and

(3) in subsection (i)(1)(B), by adding at the end ''including adjustments under subsection (c)(2)(F),''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1994.

SEC. 7206. PAYMENTS FOR NEW PHYSICIANS AND PRACTITIONERS.

(a) EQUAL TREATMENT OF NEW PHYSICIANS AND PRACTITIONERS.—(1) Section 1848(a) (42 U.S.C. 1395w–4(a)), as amended by section 7204(a), is further amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended by striking subparagraph (F).

(b) BUDGET NEUTRALITY ADJUSTMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall reduce the following values and amounts for 1994 (to be applied for that year and subsequent years) by such uniform percentage as the Secretary determines to be required to assure that the amendments made by subsection (a) will not result in expenditures under part B of title XVIII of the Social Security Act in 1994 that exceed the amount of such expenditures that would have been made if such amendments had not been made:

(1) The relative values established under section 1848(c) of such Act for services (other than anesthesia services) and, in the case of anesthesia services, the conversion factor established under section 1848 of such Act for such services.

(2) The amounts determined under section 1848(a)(2)(B)(ii)(I) of such Act.

(3) The prevailing charges or fee schedule amounts to be applied under such part for services of a health care practitioner (as defined in section 1842(b)(4)(F)(ii)(I) of such Act, as in effect before the date of the enactment of this Act).

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4), as amended by section 7205(c), is amended—

(1) in subsection (a)(2)(B)(ii)(I), by inserting ''and under section 7206(b) of the Omnibus Budget Reconciliation Act of 1993'' after ''subsection (c)(2)(F)(ii)'';

(2) in subsection (c)(2)(A)(i), by inserting ''and section 7206(b) of the Omnibus Budget Reconciliation Act of 1993'' after ''under subparagraph (F)(i)''; and

(3) in subsection (i)(1)(B), by inserting ''and section 7206(b) of the Omnibus Budget Reconciliation Act of 1993'' after ''under subsection (c)(2)(F)''.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 7207. EXTRA-BILLING LIMITS.

(a) ENFORCEMENT AND UNIFORM APPLICATION.—

(1) ENFORCEMENT.—Paragraph (1) of section 1848(g) (42 U.S.C. 1395w–4(g)) is amended to read as follows:

''(1) LIMITATION ON ACTUAL CHARGES.—

"(A) IN GENERAL.—In the case of a nonparticipating physician or nonparticipating supplier or other person (as defined in section 1842(i)(2)) who does not accept payment on an assignment-related basis for a physician's service furnished with respect to an individual enrolled under this part, the following rules apply:

"(i) APPLICATION OF LIMITING CHARGE.—No person may bill or collect an actual charge for the service in excess of the limiting charge described in paragraph (2) for such service.

"(ii) NO LIABILITY FOR EXCESS CHARGES.—No person is liable for payment of any amounts billed for the service in excess of such limiting charge.

"(iii) CORRECTION OF EXCESS CHARGES.—If such a physician, supplier, or other person bills, but does not collect, an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall reduce on a timely basis the actual charge billed for the service to an amount not to exceed the limiting charge for the service.

"(iv) REFUND OF EXCESS COLLECTIONS.—If such a physician, supplier, or other person collects an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall provide on a timely basis a refund to the individual charged in the amount by which the amount collected exceeded the limiting charge for the service. The amount of such a refund shall be reduced to the extent the individual has an outstanding balance owed to the physician.

"(B) SANCTIONS.—If a physician, supplier, or other person—

"(i) knowingly and willfully bills or collects for services in violation of subparagraph (A)(i) on a repeated basis, or

"(ii) fails to comply with clause (iii) or (iv) of subparagraph (A) on a timely basis,

the Secretary may apply sanctions against the physician, supplier, or other person in accordance with paragraph (2) of section 1842(j). In applying this subparagraph, paragraph (4) of such section applies in the same manner as

such paragraph applies to such section and any reference in such section to a physician is deemed also to include a reference to a supplier or other person under this subparagraph.

''(C) TIMELY BASIS.—For purposes of this paragraph, a reduction or refund under clauses (iii) and (iv) of subparagraph (A) shall be treated as done on a timely basis if the reduction or refund is made not later than 30 days after the date the physician, supplier, or other person is notified by the carrier under this part of such violation and of the requirements of subparagraph (A).''.

(2) UNIFORM APPLICATION OF EXTRA-BILLING LIMITS TO PHYSICIANS' SERVICES.—

(A) IN GENERAL.—Section 1848(g)(2)(C) (42 U.S.C. 1395w–4(g)(2)(C)) is amended by inserting ''or for nonparticipating suppliers or other persons'' after ''nonparticipating physicians''.

(B) CONFORMING DEFINITION.—Section 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amended—

(i) by striking '', and the term'' and inserting ''; the term'', and

(ii) by inserting before the period at the end the following: ''; and the term 'nonparticipating supplier or other person' means a supplier or other person (excluding a provider of services) that is not a participating physician or supplier (as defined in subsection (h)(1))''.

(3) ADDITIONAL CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(A) in subsection (a)(3)—

(i) by inserting ''AND SUPPLIERS'' after ''PHYSICIANS'' in the heading,

(ii) by inserting ''or a nonparticipating supplier or other person'' after ''nonparticipating physician'', and

(iii) by adding at the end the following: ''In the case of physicians' services (including services which the Secretary excludes pursuant to subsection (j)(3)) of a nonparticipating physician, supplier, or other person for which payment is made under this part on a basis other than the fee schedule amount, the payment shall be based on 95 percent of the payment basis

for such services furnished by a participating physician, supplier, or other person.''; (B) in subsection (g)(1)(A), as amended by subsection (a), in the matter before clause (i), by inserting ''(including services which the Secretary excludes pursuant to subsection (j)(3))'' after ''a physician's service'';

(C) in subsection (g)(2)(D), by inserting ''(or, if payment under this part is made on a basis other than the fee schedule under this section, 95 percent of the other payment basis)'' after ''subsection (a)'';

(D) in subsection (g)(3)(B)—

(i) by inserting after the first sentence the following: ''No person is liable for payment of any amounts billed for such a service in violation of the preceding sentence.'', and

(ii) in the last sentence, by striking ''previous sentence'' and inserting ''first sentence'';

(E) in subsection (h)—

(i) by inserting ''or nonparticipating supplier or other person furnishing physicians' services (as defined in section

1848(j)(3))'' after ''physician'' the first place it appears,

(ii) by inserting '', supplier, or other person'' after ''physician'' the second place it appears, and

(iii) by inserting '', suppliers, and other persons'' after ''physicians'' the second place it appears; and

(F) in subsection (j)(3), by inserting '', except for purposes of subsections (a)(3), (g), and (h),'' after ''tests and''.

(b) CLARIFICATION OF MANDATORY ASSIGNMENT RULES FOR CERTAIN PRACTITIONERS.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

''(19)(A) Payment for any service furnished by a practitioner described in subparagraph (C) and for which payment may be made under this part on a reasonable charge or fee schedule basis may only be made under this part on an assignment-related basis.

''(B) A practitioner described in subparagraph (C) or other person may not bill (or collect any amount from) the individual or another person for any service described in subparagraph (A), except for deductible and coinsur-

ance amounts applicable under this part. No person is liable for payment of any amounts billed for such a service in violation of the previous sentence. If a practitioner or other person knowingly and willfully bills (or collects an amount) for such a service in violation of such sentence, the Secretary may apply sanctions against the practitioner or other person in the same manner as the Secretary may apply sanctions against a physician in accordance with subsection (j)(2) in the same manner as such section applies with respect to a physician. Paragraph (4) of subsection (j) shall apply in this subparagraph in the same manner as such paragraph applies to such section.

''(C) A practitioner described in this subparagraph is any of the following:

''(i) A physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)).

''(ii) A certified registered nurse anesthetist (as defined in section 1861(bb)(2)).

''(iii) A certified nurse-midwife (as defined in section 1861(gg)(2)).

''(iv) A clinical social worker (as defined in section 1861(hh)(1)).

''(v) A clinical psychologist (as defined by the Secretary for purposes of section 1861(ii)).

"(D) For purposes of this paragraph, a service furnished by a practitioner described in subparagraph (C) includes any services and supplies furnished as incident to the service as would otherwise be covered under this part if furnished by a physician or as incident to a physician's service.".

(2) CONFORMING AMENDMENTS.—

(A) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (l)(5), by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(ii) by striking subsection (p); and

(iii) in subsection (r), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(c) INFORMATION ON EXTRA-BILLING LIMITS.—

(1) PART OF EXPLANATION OF MEDICARE BENEFITS.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

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

(B) in subparagraph (C), by striking ''shall include'',

(C) in subparagraph (C), by striking the period at the end and inserting '', and'', and

(D) by adding at the end the following new subparagraph:

''(D) in the case of services for which the billed amount exceeds the limiting charge imposed under section 1848(g), information regarding such applicable limiting charge (including information concerning the right to a refund under section 1848(g)(1)(A)(iv)).''.

(2) DETERMINATIONS BY CARRIERS.—Subparagraph (G) of section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended to read as follows:

''(G) will, for a service that is furnished with respect to an individual enrolled under this part, that is not paid on an assignment-related basis, and that is subject to a limiting charge under section 1848(g)—

''(i) determine, prior to making payment, whether the amount billed for such service exceeds the limiting charge applicable under section 1848(g)(2);

''(ii) notify the physician, supplier, or other person periodically (but not less often than once every 30 days) of determinations that amounts billed exceeded such applicable limiting charges; and

''(iii) provide for prompt response to inquiries of physicians, suppliers, and other persons concerning the accuracy of such limiting charges for their services;''.

(d) REPORT ON CHARGES IN EXCESS OF LIMITING CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w–4(g)(6)(B)) is amended by inserting ''the extent to which actual charges exceed limiting charges, the number and types of services involved, and the average amount of excess charges and'' after ''report to the Congress''.

(e) MISCELLANEOUS AND TECHNICAL AMENDMENTS.—Section 1833 (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(1)—

(A) by striking ''and'' before ''(N)'';

(B) with respect to the matter inserted by section 4155(b)(2)(B) of OBRA–1990—

(i) by striking ''(M)'' and inserting '', and (O)''; and

(ii) by transferring and inserting it (as amended) immediately before the semicolon at the end;

(C) by striking ''and'' before ''(O)'', and

(D) by inserting before the semicolon at the end the following: '', and (P) with respect to services described in clauses (i), (ii) and (iv) of section 1861(s)(2)(K), the amounts paid are subject to the provisions of section 1842(b)(12)''; and

(2) in subsection (h)(5)(D)—

(A) by striking ''paragraphs (2) and (3)'' and by inserting ''paragraph (2)'', and

(B) by adding at the end the following: ''Paragraph (4) of such section shall apply in this subparagraph in the same manner as such paragraph applies to such section.''.

(f) EFFECTIVE DATES.—

(1) ENFORCEMENT AND UNIFORM APPLICATION; MISCELLANEOUS AND TECHNICAL AMENDMENTS.—The amendments made by subsections (a) and (e) shall apply to services furnished on or after the date of the enactment of this Act; except that the amendments made by subsection (a) shall not

apply to services of a nonparticipating supplier or other person furnished before January 1, 1994.

(2) PRACTITIONERS.—The amendments made by subsection (b) shall apply to services furnished on or after January 1, 1994.

(3) EOMBS.—The amendments made by subsection (c)(1) shall apply to explanations of benefits provided on or after January 1, 1994.

(4) CARRIER DETERMINATIONS.—The amendments made by subsection (c)(2) shall apply to contracts as of January 1, 1994.

(5) REPORT.—The amendment made by subsection (d) shall apply to reports for years beginning after 1993.

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.

Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking ''fiscal year 1992, 1993, 1994, or 1995'' and inserting ''fiscal years 1992 through 1998''.

SEC. 7222. EXTENSION OF REDUCTION IN PAYMENTS FOR OTHER COSTS OF OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking ‘‘, 1992, 1993, 1994, or 1995’’ and inserting ‘‘through 1998’’.

SEC. 7223. CHANGES TO PAYMENT FORMULAS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3) (42 U.S.C. 1395l(i)(3)) is amended—

(1) in subparagraph (A), by striking clause (ii) and inserting the following:

‘‘(ii) the lesser of—

‘‘(I) the aggregate blended amount, less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), or

‘‘(II) 80 percent of the aggregate blended amount.’’;

(2) in subparagraph (B)—

(A) in clause (i), by striking ‘‘The blend amount’’ and inserting ‘‘For purposes of subparagraph (A), the aggregate blended amount’’,

(B) in subclause (I) of clause (i), by striking ‘‘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'', and

(C) in subclause (II) of clause (i), by striking ''of 80 percent''.

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n) (42 U.S.C. 1395l(n)) is amended—

(1) in paragraph (1), by redesignating subparagraph (B) as paragraph (2) and by redesignating clauses (i) and (ii) of such paragraph (as so redesignated) and subclauses (I) and (II) of such clauses as subparagraphs (A) and (B) and clauses (i) and (ii), respectively;

(2) in paragraph (1), by striking ''(A) The aggregate amount'' and inserting ''The aggregate amount'';

(3) in paragraph (1), by redesignating clause (i) as subparagraph (A) and by striking clause (ii) and inserting the following:

''(B) the lesser of—

''(i) the aggregate blended amount, less the amount a provider may charge as

described in clause (ii) of section 1866(a)(2)(A), or

''(ii) 80 percent of the aggregate blended amount.''; and

(4) in paragraph (2) (as so redesignated)—

(A) in subparagraph (A) (as so redesignated), by striking ''The blend amount'' and inserting ''The aggregate blended amount'',

(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'',

(C) in subparagraph (A)(iii) (as so redesignated) by striking ''(as defined in clause (ii)(II))'', and

(D) in subparagraph (B) (as so redesignated), by striking ''In this subparagraph'' and inserting ''For purposes of subparagraph (A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to portions of cost reporting periods occurring on or after October 1, 1993.

SEC. 7224. REDUCTION IN PAYMENTS FOR INTRAOCULAR LENSES.

(a) PAYMENT FOR INTRAOCULAR LENS.—Section 4151(c)(3) of OBRA–1990 is amended—

(1) by striking ''center'' and all that follows and inserting ''center—

''(A) on or after the date of the enactment of this Act and on or before December 31, 1993, shall be equal to $200; and

''(B) on or after January 1, 1994, and on or before December 31, 1998, shall be equal to $150.''; and

(2) in the heading, by striking ''2-YEAR FREEZE IN ALLOWANCE'' and inserting ''ALLOWANCE''.

(b) CONFORMING AMENDMENTS.—

(1) PAYMENT AMOUNTS FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—(A)(i) Section 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: '', as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than January 1, 1995, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,''.

(ii) The second sentence of section 1833(i)(1) (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ‘‘, in consultation with appropriate trade and professional organizations.’’.

(B) Section 4151(c)(3) of OBRA–1990, as amended in subsection (a), is amended by striking ‘‘for the insertion of an intraocular lens’’ and inserting ‘‘for an intraocular lens inserted’’.

(2) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES.—(A) Notwithstanding section 4151(c)(3) of OBRA–1990 (as amended by subsection (a)), the Secretary of Health and Human Services (in this paragraph referred to as the ‘‘Secretary’’) shall, not later than 1 year after the date of the enactment of this Act, develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology intraocular lens unless

it has been approved by the Food and Drug Administration.

(B) In determining whether to provide an adjustment of payment with respect to a particular lens under subparagraph (A), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(C) The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of the determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period.

(D) Any adjustment of a payment amount (or payment limit) made under this paragraph shall become effective not later than 30 days after the date

on which the notice with respect to the adjustment is published under subparagraph (C).

(3) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—

(A) IN GENERAL.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

(i) by striking ''for reporting'' and inserting ''for portions of cost reporting''; and

(ii) by striking ''and on or before'' and inserting ''and ending on or before''.

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect as if included in the enactment of OBRA–1990.

Subpart C—Durable Medical Equipment

SEC. 7231. REVISIONS TO PAYMENT RULES FOR DURABLE MEDICAL EQUIPMENT.

(a) BASING NATIONAL PAYMENT LIMITS ON MEDIAN OF LOCAL PAYMENT AMOUNTS.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED ITEMS; ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—(A) Paragraphs (2)(C)(i)(II) and (3)(C)(i)(II) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended—

(i) by striking ''1992'' the first place it appears and inserting ''1992, 1993, and 1994''; and

(ii) by striking ''1992'' the second place it appears and inserting ''the year''.

(B) Paragraphs (2)(C)(ii) and (3)(C)(ii) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended—

(i) by striking ''and'' at the end of subclause (I);

(ii) by redesignating subclause (II) as (IV); and

(iii) by inserting after subclause (I) the following new subclauses:

''(II) for 1992 and 1993, the amount determined under this clause for the preceding year increased by the covered item update for such subsequent year,

''(III) for 1994, the local payment amount determined under clause (i) for such item or device for that year, except that the national limited payment amount may not exceed 100 percent of the median of all local pay-

ment amounts determined under such clause for such item for that year and may not be less than 85 percent of the median of all local payment amounts determined under such clause for such item or device for that year, and''.

(2) MISCELLANEOUS DEVICES AND ITEMS.—Section 1834(a)(8) (42 U.S.C. 1395m(a)(8)) is amended—

(A) in subparagraph (A)(ii)(III), by striking ''1992'' and inserting ''1992, 1993, and 1994''; and

(B) in subparagraph (B)—

(i) by striking ''and'' at the end of clause (i),

(ii) by redesignating clause (ii) as (iv), and

(iii) by inserting after clause (i) the following new clauses:

''(ii) for 1992 and 1993, the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year;

"(iii) for 1994, the local purchase price computed under subparagraph (A)(ii) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the median of all local purchase prices computed for the item under such subparagraph for the year and may not be less than 85 percent of the median of all local purchase prices computed under such subparagraph for the item for the year; and".

(3) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9) (42 U.S.C. 1395m(a)(9)) is amended—

(A) in subparagraph (A)(ii)(II), by striking "1991 and 1992" and inserting "1991, 1992, 1993, and 1994"; and

(B) in subparagraph (B)—

(i) by striking "and" at the end of clause (i),

(ii) by redesignating clause (ii) as (iv), and

(iii) by inserting after clause (i) the following new clauses:

"(ii) for 1992 and 1993, the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year;

"(iii) for 1994, the local monthly payment rate computed under subparagraph (A)(ii) for the item for the year, except that such national limited monthly payment rate may not exceed 100 percent of the median of all local monthly payment rates computed for the item under such subparagraph for the year and may not be less than 85 percent of the median of all local monthly payment rates computed for the item under such subparagraph for the year; and".

(b) PAYMENT FOR PROSTHETIC DEVICES AND ORTHOTICS AND PROSTHETICS.—

(1) IN GENERAL.—Section 1834(h)(2) (42 U.S.C. 1395m(h)(2)) is amended—

(A) in subparagraph (A)(ii)(II), by striking "1992 or 1993" and inserting "1992, 1993, or 1994";

(B) in subparagraph (B)(ii), by striking "each subsequent year" and inserting "1993";

(C) in subparagraph (C)(iv), by striking ''regional purchase price computed under subparagraph (B)'' and inserting ''national limited purchase price computed under subparagraph (E)'';

(D) in subparagraph (D)(ii), by striking ''a subsequent year'' and inserting ''1993''; and

(E) by adding at the end the following new subparagraph:

''(E) COMPUTATION OF NATIONAL LIMITED PURCHASE PRICE.—With respect to the furnishing of a particular item in a year, the Secretary shall compute a national limited purchase price—

''(i) for 1994, equal to the local purchase price computed under subparagraph (A)(ii)(II) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the median of all local purchase prices for the item computed under such subparagraph for the year, and may not be less than 85 percent of the median of all local purchase prices for the item computed under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this subparagraph for the preceding year increased by the applicable percentage increase for such subsequent year.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 7232. TREATMENT OF NEBULIZERS AND ASPIRATORS.

(a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C. 1395m(a)(3)(A)) is amended by striking "(such as ventilators, aspirators, IPPB machines, and nebulizers)".

(b) PAYMENT FOR ACCESSORIES RELATING TO NEBULIZERS AND ASPIRATORS.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)) is amended—

(1) by striking "or" at the end of clause (i),

(2) by adding "or" at the end of clause (ii), and

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

"(iii) which is an accessory used in conjunction with a nebulizer or aspirator,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 7233. PAYMENT FOR SURGICAL DRESSINGS.

(a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

''(i) PAYMENT FOR SURGICAL DRESSINGS.—

''(1) IN GENERAL.—Payment under this subsection for surgical dressings (described in section 1861(s)(5)) shall be made in a lump sum amount for the purchase of the item in an amount equal to 80 percent of the lesser of—

''(A) the actual charge for the item; or

''(B) a payment amount determined in accordance with the methodology described in subparagraphs (B) and (C) of subsection (a)(2) (except that in applying such methodology, the national limited payment amount referred to in such subparagraphs shall be initially computed based on local payment amounts using average reasonable charges for the 12-month period ending December 31, 1992, increased by the covered item updates described in such subsection for 1993 and 1994).

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to surgical dressings that are—

''(A) furnished as an incident to a physician's professional service; or

''(B) furnished by a home health agency.''.

(b) CONFORMING AMENDMENT.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by section 7207(e)(1), is amended—

(1) by striking ''and'' before ''(P)'', and

(2) by inserting before the semicolon at the end the following: '', and (Q) with respect to surgical dressings, the amounts paid shall be the amounts determined under section 1834(j)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 7234. PAYMENTS FOR TENS DEVICES.

(a) IN GENERAL.—Section 1834(a)(1)(D) (42 U.S.C. 1395m(a)(1)(D)) is amended by striking ''15 percent'' the second place it appears and inserting ''45 percent''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after January 1, 1994.

Subpart D—Part B Premium

SEC. 7251. PART B PREMIUM.

Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

(1) in paragraph (1)(A), by striking ''December 1983 and prior to January 1991 shall be an amount equal to 50 percent'' and inserting ''after December

1995 and prior to January 1999 shall be an amount equal to 50 percent'', and

(2) in paragraph (2), by striking ''1991'' and inserting ''1998''.

Subpart E—Other Provisions

SEC. 7261. REDUCTION IN UPDATE FOR CERTAIN PART B SERVICES.

(a) DURABLE MEDICAL EQUIPMENT.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking ''a subsequent year'' and inserting ''1993'', and by striking the period and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

''(C) for 1994 , no percentage change;

''(D) for 1995, 1996, 1997, and 1998, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year, reduced by 1 percentage point; and

''(E) for any subsequent year, the percentage increase in the consumer price index for all

urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.''.

(b) ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

(1) in clause (i), by striking ''and'';

(2) in clause (ii), by striking ''a subsequent year'' and inserting ''1992 and 1993'', and by striking the semicolon and inserting a comma; and

(3) by adding at the end the following new clauses:

''(iii) for 1994, 0 percent,

''(iv) for 1995, 1996, 1997, and 1998, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year, reduced by 1 percentage point, and

''(v) for any subsequent year, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year;''.

(c) AMBULATORY SURGICAL CENTERS.—

(1) NO UPDATE IN 1994.—Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B) of section 1833(i)(2) of the Social Security Act, the Secretary of Health and Human Services shall not provide for any inflation update in the payment amounts under such subparagraphs (A) and (B) for 1994.

(2) AUTOMATIC APPLICATION OF INFLATION ADJUSTMENT.—Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is amended—

(A) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking ''and may be adjusted by the Secretary, when appropriate,''; and

(B) by adding at the end the following new subparagraphs:

''(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished during 1995, 1996, 1997, or 1998, such amounts shall be increased by the percentage increase in the Consumer Price Index for all Urban Consumers (U.S. city average) as estimated by the Secretary for the 12-

month period ending with the midpoint of the fiscal year involved, reduced by 1 percentage point.

''(D) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished during any subsequent year (beginning with 1999), such amounts shall be increased by the percentage increase in the Consumer Price Index for all Urban Consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with June of the previous year.''.

(d) RURAL HEALTH CLINIC SERVICES; FEDERALLY-QUALIFIED HEALTH CENTER SERVICES; COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES.—In determining the amount of payment made for rural health clinic services, Federally qualified health center services, or comprehensive outpatient rehabilitation facility services furnished under part B of title XVIII of the Social Security Act for services furnished—

(1) in 1994, the Secretary of Health and Human Services shall provide that any inflation update, in the applicable limits used to determine the costs which are reasonable and related to the cost of furnishing such services under section 1833(a)(3) of

such Act, that would otherwise have applied for 1994 shall be deemed to be 0 percent; and

(2) in 1995, 1996, 1997, and 1998, the Secretary of Health and Human Services shall provide that any inflation update in such applicable limits shall be such update that would otherwise have applied for such year, reduced by 1 percentage point.

(e) DIALYSIS SERVICES.—In determining the amount of payment made for dialysis services furnished under part B of title XVIII of the Social Security Act—

(1) in 1994, the Secretary of Health and Human Services shall provide that any inflation update, in the payment amounts determined under section 1881(b)(2)(B) of such Act or the rates determined under section 1881(b)(7) of such Act, that would otherwise have applied for 1994 shall be deemed to be 0 percent; and

(2) in 1995, 1996, 1997, and 1998, the Secretary of Health and Human Services shall provide that any inflation update in such payment amounts or rates shall be such update that would otherwise have applied for such year, reduced by 1 percentage point.

(f) PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—In determining the amount of

payment under part B of title XVIII of the Social Security Act during 1994, the charges determined to be reasonable with respect to parenteral and enteral nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1993.

(g) OTHER PART B ITEMS AND SERVICES.—

(1) In determining the amount of payment made for an item or service furnished during 1994 under part B of title XVIII of the Social Security Act, other than physicians' services, clinical laboratory services, or an item or service to which a preceding provision of (or amendment made by) subsection (a), (b), (c), (d), (e), or (f) applies, the Secretary of Health and Human Services shall provide that any inflation update in the fee schedule amount for the item or service established under such part B of such title, or (if applicable) any applicable limit used to determine the actual charge, reasonable charge, or reasonable cost for the item or service under such part, that would otherwise have applied for 1994 shall be deemed to be 0 percent.

(2) In determining the amount of payment made for an item or service furnished in 1995, 1996, 1997, and 1998 under part B of title XVIII

of the Social Security Act, other than physician's services, clinical laboratory service, or an item or service to which a preceding provision of (or amendment made by) subsection (a), (b), (c), (d), or (e) applies, the Secretary of Health and Human Services shall provide that any inflation update in such fee schedule amount, or (if applicable) such applicable limit, shall be such update that would otherwise have applied for such year, reduced by 1 percentage point.

SEC. 7262. PAYMENTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) LOWER CAP.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) by striking ''and'' at the end of clause (iii),

(2) in clause (iv), by inserting ''and before January 1, 1994,'' after ''1990,'',

(3) by striking the period at the end of clause (iv) and inserting '', and'', and

(4) by adding at the end the following:

''(v) after December 31, 1993, is equal to 76 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).''.

(b) NO UPDATE FOR 1994 THROUGH 1998.—Section 1833(h)(2)(A)(ii)(II) (42 U.S.C. 1395l(h)(2)(A)(ii)(III)) is amended by inserting ''1994, 1995, 1996, 1997, and 1998'' after ''1988''.

PART III—PROVISIONS RELATING TO PARTS A AND B

SEC. 7301. PAYMENTS FOR DIRECT GRADUATE MEDICAL EDUCATION COSTS.

(a) WEIGHTING FACTORS.—Section 1886(h)(4)(C) (42 U.S.C. 1395ww(h)(4)(C)) is amended to read as follows:

''(C) WEIGHTING FACTORS FOR CERTAIN RESIDENTS.—Subject to subparagraph (D), such rules shall provide, in calculating the number of full-time-equivalent residents in an approved residency program—

''(i) with respect to residents entering an approved medical residency training program before September 1, 1993—

''(I) for a resident who is in the resident's initial residency period, the weighting factor is 1.00, and

''(II) for a resident who is not in the resident's initial residency period, the weighting factor is .50; and

''(ii) with respect to residents entering an approved medical residency training program on or after September 1, 1993—

''(I) for a resident who is in the resident's initial residency period, and is in—

''(aa) a primary care residency, the weighting factor is 1.10, and

''(bb) any other residency, the weighting factor is 0.70, and

''(II) for a resident who is not in the resident's initial residency period, the weighting factor is 0.50.''.

(b) INITIAL RESIDENCY PERIOD.—

(1) IN GENERAL.—Section 1886(h)(5)(F) (42 U.S.C. 1395ww(h)(5)(F)) is amended by striking ''plus one year''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective on and after July 1, 1995.

(c) PRIMARY CARE RESIDENCY.—Section 1886(h)(5) (42 U.S.C. 1395ww(h)(5)) is amended by adding at the end the following new subparagraph:

"(I) PRIMARY CARE RESIDENCY.—The term 'primary care residency' means a residency training program in family medicine, general internal medicine, general pediatrics, preventive care, geriatric care, or osteopathic general practice.".

(d) PREVENTIVE CARE SERVICES AS PART OF INITIAL RESIDENCY PERIOD.—Section 1886(h)(5)(F)(ii) (42 U.S.C. 1395ww(h)(5)(F)(ii)) is amended by inserting "or a preventive care residency or fellowship program" after "fellowship program".

(e) SUCCESSOR EXAMS INCLUDED IN DEFINITION OF FMGEMS EXAMINATION.—

(1) IN GENERAL.—Section 1886(h)(5)(E) is amended by inserting "or any successor examination" after "Medical Sciences".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

(f) REPORT BY THE SECRETARY.—

(1) RECOMMENDATIONS.—The Secretary shall make recommendations—

(A) concerning the extent to which variation in the approved FTE per resident amounts should be reduced;

(B) whether the approved FTE per resident amounts should be adjusted to account for substantial changes in the operation of an approved medical residency training program since the base year calculation; and

(C) potential changes in the graduate medical education payment system that would promote residency training in nonhospital ambulatory site.

(2) REPORT.—Not later than July 31, 1994, the Secretary shall deliver a report to Congress which shall contain recommendations on each of the matters under paragraph (1).

SEC. 7302. REVISION OF HOME HEALTH AGENCY COST LIMITS.

(a) IN GENERAL.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) in clause (i), by striking ''for cost reporting periods'' and all that follows through to the period and inserting ''110 percent of the median of the labor-related and nonlabor per visit costs for home health agencies.'', and

(2) in clause (ii), by striking ''specific basis,'' and all that follows through ''agencies.'' and inserting ''specific basis.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to cost reporting periods beginning on or after October 1, 1993.

SEC. 7303. MEDICARE AS SECONDARY PAYER.

(a) EXTENSION OF AND MODIFICATIONS TO DATA MATCH PROGRAM.—(1)(A) Section 1862(b)(5)(C)(iii) (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking ''1995'' and inserting ''1998''.

(B) Section 6103(l)(12)(F) of the Internal Revenue Code of 1986 is amended—

(i) in clause (i), by striking ''1995'' and inserting ''1998'',

(ii) in clause (ii)(I), by striking ''1994'' and inserting ''1997'', and

(iii) in clause (ii)(II), by striking ''1995'' and inserting ''1998''.

(2)(A) Section 6103(l)(12)(B)(i) of the Internal Revenue Code of 1986 is amended by inserting '', above an amount (if any) specified by the Secretary of Health and Human Services,'' after ''section 3401(a))''.

(B) The matter in section 6103(l)(12)(B)(ii) of such Code preceding subclause (I) is amended by inserting '',

above an amount (if any) specified by the Secretary of Health and Human Services,'' after ''wages''.

(C) The heading to section 6103(l)(12) of such Code is amended by striking ''TAXPAYER IDENTITY'' and inserting ''RETURN''.

(3)(A) Section 6103(l)(12) of the Internal Revenue Code of 1986, as amended by paragraph (1), is amended—

(i) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and

(ii) by inserting after subparagraph (D) the following new subparagraph:

''(E) DISCLOSURE CONCERNING ENFORCEMENT ACTIVITIES.—The Secretary shall, upon written request from the Secretary of Health and Human Services, disclose to the Secretary of Health and Human Services the status of any activities undertaken (with respect to persons specified by the Secretary of Health and Human Services) to enforce the requirements of section 5000.''.

(B) Section 6103(l)(12)(D)(i) of such Code is amended by striking ''this paragraph'' and inserting ''subparagraphs (A) through (C)''.

(C) The heading to section 6103(l)(12) of such Code is amended by inserting ''AND FOR FACILITATION OF ENFORCEMENT OF MEDICARE SECONDARY PAYER REQUIREMENTS'' before the period.

(D) Section 1862(b)(5)(C)(i) (42 U.S.C. 1395y(b)(5)(C)(i)) is amended by striking ''6103(l)(12)(D)(iii)'' and inserting ''6103(l)(12)(F)(iii)''.

(b) PERMANENT APPLICATION TO DISABLED ACTIVE INDIVIDUALS.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended by striking clause (iii).

(c) APPLICATION OF ESRD RULES TO CERTAIN AGED AND DISABLED BENEFICIARIES AND INCREASE IN MEDICARE SECONDARY PAYER COVERAGE FOR ESRD SERVICES TO 24-MONTHS.—(1) Subparagraphs (A)(iv) and (B)(ii) of section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) are each amended—

(A) by striking ''Clause (i) shall not apply'' and inserting ''Subparagraph (C) shall apply instead of clause (i)'', and

(B) by inserting ''(without regard to entitlement under section 226)'' after ''individual is, or''.

(2) Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(A) in the second sentence, by striking ''on or before January 1, 1996'' and inserting before ''January 1, 1994'', and

(B) by adding at the end the following: ''Effective for items and services furnished on or after January 1, 1994, and before October 1, 1998, (with respect to periods beginning on or after July 1, 1992), this subparagraph shall be applied by substituting '24-month' for '12-month' each place it appears.''.

(d) APPLICATION OF EXCISE TAX TO FAILURE TO REIMBURSE FEDERAL GOVERNMENT.—

(1) IN GENERAL.—Section 5000(c) of the Internal Revenue Code of 1986 is amended by striking ''of section 1862(b)(1)'' and inserting ''of paragraph (1), or with the requirements of paragraph (2), of section 1862(b).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to demands for repayment issued after the date of the enactment of this Act.

(e) RETROACTIVE EXEMPTION FOR CERTAIN SITUATIONS INVOLVING RELIGIOUS ORDERS.—Section 1862(b)(1)(D) of the Social Security Act (42 U.S.C. 1395y(b)(1)(D)) applies, with respect to items and services furnished before October 1, 1989, to any claims that

the Secretary of Health and Human Services had not identified before that date as subject to the provisions of this subsection.

(f) UNIFORM RULES FOR SIZE OF EMPLOYER.—(1) Section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended by adding at the end the following new subparagraph:

''(E) GENERAL PROVISIONS.—

''(i) EXCLUSION OF GROUP HEALTH PLAN OF A SMALL EMPLOYER.—Subparagraphs (A) through (C) shall not apply to a group health plan unless the plan is a plan of, or contributed to by, an employer or employee organization that has 20 or more individuals in current employment status for each working day in each of 20 or more calendar weeks in the current calendar year or the preceding calendar year.

''(ii) EXCEPTION FOR SMALL EMPLOYERS IN MULTIEMPLOYER OR MULTIPLE EMPLOYER GROUP HEALTH PLANS.—Subparagraphs (A) through (C) shall not apply with respect to individuals enrolled in a multiemployer or multiple employer group health plan if the coverage of the individuals under the plan is by virtue of current

employment status with an employer that does not have 20 or more individuals in current employment status for each working day in each of 20 or more calendar weeks in the current calendar year or the preceding calendar year; but the exception provided in this clause applies only if the plan elects treatment under this clause.

''(iii) SPECIAL RULES.—For purposes of clauses (i) and (ii)—

''(I) all employees of corporations which are members of a controlled group of corporations (within the meaning of section 1563(a) of the Internal Revenue Code of 1986, determined without regard to section 1563(a)(4) or section (e)(3)(C) of such Code), shall be treated as employed by a single employer,

''(II) all employees of trades or businesses (whether or not incorporated) which are under common control (under regulations prescribed by the Secretary of the Treasury under section 414(c) of such Code)

shall be treated as employed by a single employer,

''(III) all employees of the members of an affiliated service group (as defined in section 414(m) of such Code) shall be treated as employed by a single employer, and

''(IV) leased employees (as defined in section 414(n)(2) of such Code) shall be treated as employees of the person for whom they perform services to the extent they are so treated under section 414(n) of such Code.

In applying sections of the Internal Revenue Code under this clause, the Secretary shall rely upon regulations and decisions of the Secretary of the Treasury respecting such sections.''.

''(iv) GROUP HEALTH PLAN DEFINED.—For purposes of this subsection, the term 'group health plan' has the meaning given such term in section 5000(b) of the Internal Revenue Code of 1986, with-

out regard to section 5000(d) of such Code.

''(v) CURRENT EMPLOYMENT STATUS DEFINED.—For purposes of this subsection, an individual has 'current employment status' with an employer if the individual is an employee, is the employer, or is associated with the employer in a business relationship.

''(vi) EMPLOYER DEFINED.—For purposes of this subsection, the term 'employer' includes a self-employed person.''.

(2)(A) Section 1862(b)(1)(A)(i)(I) (42 U.S.C. 1395y(b)(1)(A)(i)(I)) is amended to read as follows:

''(I) may not take into account that an individual (or the individual's spouse) who is covered under the plan by virtue of the individual's current employment status with an employer is entitled to benefits under this title under section 226(a), and''.

(B) Section 1862(b)(1)(A)(i)(II) (42 U.S.C. 1395y(b)(1)(A)(i)(II)) is amended to read as follows:

''(II) shall provide that any individual age 65 or over (and the indi-

vidual's spouse age 65 or older) who is covered under the plan by virtue of the individual's current employment status with an employer shall be entitled to the same benefits under the plan under the same conditions as any such individual (or spouse) under age 65.''.

(C) Section 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)), as amended by subsection (c)(1), is amended—

(i) by striking clauses (ii), (iii), and (v), and

(ii) by redesignating clause (iv) as clause (ii).

(3)(A) Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)(i)) is amended—

(i) by striking the heading and inserting the following new heading:

''(B) DISABLED INDIVIDUALS UNDER GROUP HEALTH PLANS.—'', and

(ii) by striking clause (i) and inserting the following new clause:

''(i) IN GENERAL.—A group health plan may not take into account that an individual (or a member of the individual's family) who is covered under the plan by virtue of the individ-

ual's current employment status with an employer is entitled to benefits under this title under section 226(b).''.

(B) Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended by striking clause (iv).

(4) Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(A) in the matter preceding clause (i), by striking ''(as defined in subparagraph (A)(v))'',

(B) by striking ''solely'' each place it appears,

(C) by striking ''by reason of'' and inserting ''under'' each place it appears, and

(D) by inserting ''or eligible for'' after ''entitled to'' the first and last place it appears.

(5) The second sentence of section 1862(b)(2)(A) (42 U.S.C. 1395y(b)(2)(A)) is amended by striking ''or large group health plan''.

(6)(A) Subsection (a) of section 5000 of the Internal Revenue Code of 1986 is amended by inserting ''(including a self-employed person)'' after ''employer'';

(B) Subsection (b) of section 5000 of such Code is amended to read as follows:

''(b) GROUP HEALTH PLAN.—The term 'group health plan' means a plan (including a self-insured plan) of, or contributed to by, an employer (including a self-em-

ployed person) or employee organization to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families.''; and

(C) Subsection (c) of section 5000 of such Code by striking ''or large group health plan''.

(D) Section 6103(l)(12)(F)(ii) of such Code (as redesignated by subsection (a)(3)(A)(i) of this section) is amended to read as follows:

''(ii) GROUP HEALTH PLAN.—The term 'group health plan' means any group health plan (as defined in section 5000(b)).''.

(g) EFFECTIVE DATE.—The amendments made by subsections (c)(1), (d), and (f) apply to items and services furnished after the third calendar month beginning after the date of enactment of this Act.

SEC. 7304. EXTENSION OF SELF-REFERRAL BAN TO ADDITIONAL SPECIFIED SERVICES.

(a) EXTENSION TO DESIGNATED HEALTH SERVICES.—

(1) IN GENERAL.—Section 1877(h) (42 U.S.C. 1395nn(h)) is amended by adding at the end the following new paragraph:

''(8) DESIGNATED HEALTH SERVICES.—The term 'designated health services' means—

''(A) clinical laboratory services;

''(B) physical or occupational therapy services;

''(C) radiology or other diagnostic services;

''(D) radiation therapy services;

''(E) the furnishing of durable medical equipment;

''(F) the furnishing of parenteral and enteral nutrition nutrients, supplies, and equipment;

''(G) home health services; and

''(H) the furnishing of prosthetics, orthotics, and prosthetic devices.''.

(2) CONFORMING AMENDMENTS.—Section 1877 (42 U.S.C. 1395nn) is amended—

(A) by striking ''clinical laboratory services'' and ''CLINICAL LABORATORY SERVICES'' and inserting ''designated health services'' and ''DESIGNATED HEALTH SERVICES'', respectively, each place either appears in subsections (a)(1), (b)(2)(A)(ii), (d)(1), (d)(2), and (d)(3); and

(B) by striking ''clinical laboratory service'' and inserting ''designated health service''

each place it appears in subsections (g)(1) and (h)(7)(B).

(b) MODIFICATION TO EXCEPTION FOR IN-OFFICE ANCILLARY SERVICES.—Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended—

(1) by inserting ''(other than durable medical equipment and parenteral and enteral nutrition equipment and supplies)'' after ''services'' the first place it appears; and

(2) in subparagraph (A)(ii)(II), by striking ''centralized provision'' and inserting ''provision of some or all''.

(c) TREATMENT OF COMPENSATION ARRANGEMENTS.—

(1) RENTAL OF OFFICE SPACE AND EQUIPMENT.—

(A) IN GENERAL.—Paragraph (1) of section 1877(e) (42 U.S.C. 1395nn(e)) is amended to read as follows:

''(1) RENTAL OF OFFICE SPACE; RENTAL OF EQUIPMENT.—

''(A) OFFICE SPACE.—Payments made by a lessee to a lessor for the use of premises if—

''(i) the lease is set out in writing, signed by the parties, and specifies the premises covered by the lease,

''(ii) the space rented or leased is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee, except that the lessee may make payments for the use of space consisting of common areas if such payments do not exceed the lessee's pro rata share of expenses for such space based upon the ratio of the space used exclusively by the lessee to the total amount of space (other than common areas) occupied by all persons using such common areas,

''(iii) the lease provides for a term of rental or lease for at least one year,

''(iv) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals

or other business generated between the parties,

''(v) the lease would be commercially reasonable even if no referrals were made between the parties,

''(vi) the lease covers all of the premises leased between the parties for the period of the lease, and

''(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

''(B) EQUIPMENT.—Payments made by a lessee of equipment to the lessor of the equipment for the use of the equipment if—

''(i) the lease is set out in writing, signed by the parties, and specifies the equipment covered by the lease,

''(ii) the equipment rented or leased is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee,

''(iii) the lease provides for a term of rental or lease of at least one year,

''(iv) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

''(v) the lease would be commercially reasonable even if no referrals were made between the parties,

''(vi) the lease covers all of the equipment leased between the parties for the period of the lease, and

''(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.''.

(B) CONFORMING AMENDMENT.—Section 1877(h) (42 U.S.C. 1395nn(h)) is amended by striking paragraphs (5) and (6) and by redesignating paragraphs (7) and (8) (as added by

subsection (a)(1)) as paragraphs (5) and (6), respectively.

(2) BONA FIDE EMPLOYMENT RELATIONSHIPS.—Section 1877(e)(2) (42 U.S.C. 1395nn(e)(2)) is amended—

(A) by striking ''AND SERVICE'' and ''WITH HOSPITALS'';

(B) by striking ''An arrangement'' and all that follows through ''if'' and inserting ''Any amount paid by an employer to a physician (or an immediate family member of such physician) who has a bona fide employment relationship with the employer for the provision of services if'';

(C) in subparagraphs (A), (B), and (D), by striking ''arrangement'' and inserting ''employment relationship'';

(D) in subparagraph (C), by striking ''hospital'' and inserting ''employer''; and

(E) by adding at the end the following new flush sentence:

''Subparagraph (B)(ii) shall not be construed as prohibiting the payment of remuneration in the form of a productivity bonus based on services performed

personally by the physician (or an immediate family member of such physician).''.

(3) PERSONAL SERVICE ARRANGEMENTS.—Section 1877(e)(3) (42 U.S.C. 1395nn(e)(3)) is amended to read as follows:

''(3) SERVICE ARRANGEMENTS.—

''(A) PERSONAL SERVICE ARRANGEMENTS.—Remuneration from an entity under an arrangement if—

''(i) the arrangement is set out in writing, signed by the parties, and specifies the services covered by the arrangement,

''(ii) the arrangement covers all of the services to be provided,

''(iii) the aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement,

''(iv) the term of the arrangement is for at least one year,

''(v) the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of

any referrals or other business generated between the parties,

''(vi) the services to be performed under the arrangement do not involve the counseling or promotion of a business arrangement of other activity that violates any State or Federal law, and

''(vii) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

''(B) OTHER SERVICE ARRANGEMENTS.—Remuneration from an entity under an arrangement if—

''(i) the arrangement is—

''(I) for specific identifiable services as the medical director or as a member of a medical advisory board at the entity pursuant to a requirement of this title,

''(II) for specific identifiable physicians' services to be furnished to an individual receiving hospice care if payment for such services may only be made under this title as hospice care,

"(III) for specific physicians' services furnished to a nonprofit blood center, or

"(IV) for specific identifiable administrative services (other than direct patient care services), but only under exceptional circumstances specified by the Secretary in regulations;

"(ii) the requirements described in subparagraphs (B) and (C) of paragraph (2) are met with respect to the entity in the same manner as they apply to an employer; and

"(iii) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.".

(4) HEALTH SERVICES FURNISHED UNDER CERTAIN HOSPITAL ARRANGEMENTS.—Section 1877(e) (42 U.S.C. 1395nn(e)) is amended by adding at the end the following new paragraph:

"(7) CERTAIN GROUP PRACTICE ARRANGEMENTS WITH A HOSPITAL.—

"(A) IN GENERAL.—An arrangement between a hospital and a group under which des-

ignated health services are provided by the group but are billed by the hospital if—

''(i) the group would be a group practice, but for the fact that it bills for such services through the hospital;

''(ii) with respect to services provided to an inpatient of the hospital, the arrangement is pursuant to the provision of inpatient hospital services under section 1861(b)(3);

''(iii) the arrangement began before December 19, 1989, and has continued in effect without interruption since such date;

''(iv) the group provides substantially all of the designated health services furnished under the arrangement to the hospital's patients;

''(v) the arrangement is pursuant to an agreement that is set out in writing and that specifies the services to be provided by the parties and the compensation for services provided under the arrangement;

''(vi) the compensation paid over the term of the agreement is consistent with fair market value and the compensation

per unit of services is fixed in advance and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties;

''(vii) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity; and

''(viii) the arrangement between the parties meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.''.

(5) ADDITIONAL EXCEPTION.—Section 1877(e) (42 U.S.C. 1395nn(e)) is further amended by adding at the end the following new paragraph:

''(8) PAYMENTS BY A PHYSICIAN FOR ITEMS AND SERVICES.—Payments made by a physician—

''(A) to a laboratory in exchange for the provision of clinical laboratory diagnostic tests, or

''(B) to an entity as compensation for other items or services if the items or services

are furnished at a price that is consistent with fair market value.''.

(6) REFERRING PHYSICIANS.—Subparagraph (C) of section 1877(h)(5) (42 U.S.C. 1395nn(h)(5)), as redesignated by subsection (c)(1)(B), is amended—

(A) by inserting ''a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy,'' after ''examination services,'', and

(B) by inserting '', radiologist, or radiation oncologist'' after ''pathologist'' the second place it appears.

(7) CONFORMING AMENDMENT.—Section 1877(b) (42 U.S.C. 1395nn(b)) is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(d) REQUIREMENTS FOR GROUP PRACTICE.—

(1) ADDITIONAL REQUIREMENTS.—Section 1877(h)(4) (42 U.S.C. 1395nn(h)(4)) is amended to read as follows:

''(4) GROUP PRACTICE.—

''(A) DEFINITION OF GROUP PRACTICE.—The term 'group practice' means a group of 2 or more physicians legally organized as a part-

nership, professional corporation, foundation, not-for-profit corporation, faculty practice plan, or similar association—

''(i) in which each physician who is a member of the group provides substantially the full range of services which the physician routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment and personnel;

''(ii) for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group;

''(iii) in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group;

''(iv) except as provided in subparagraph (B)(i), in which no physician who is a member of the group directly or indirectly receives compensation based on the

volume or value of referrals by the physician;

''(v) in which, on average, there are no less than 5 physicians per office location, but if a group has less than 15 physicians such group may have up to 3 office locations any one of which may have less than 5 physicians;

''(vi) in which members of the group personally conduct no less than 75 percent of the physician-patient encounters of the group practice; and

''(vii) which meets such other standards as the Secretary may impose by regulation.

''(B) SPECIAL RULES.—

''(i) PROFITS AND PRODUCTIVITY BONUSES.—A physician in a group practice may be paid a share of overall profits of the group, or a productivity bonus based on services personally performed or services incident to such personally performed services, so long as the share or bonus is not determined in any manner which is di-

rectly related to the volume or value of referrals by such physician.

''(ii) FACULTY PRACTICE PLANS.—In the case of a faculty practice plan associated with a hospital, institution of higher education, or medical school with an approved medical residency training program in which physician members may provide a variety of different specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, subparagraph (A) shall be applied only with respect to the services provided within the faculty practice plan.

''(C) DEFINITION OF OFFICE LOCATION.—For purposes of this paragraph, the term 'office location' means an office where physician services are offered to patients except that—

''(i) such term does not include—

''(I) a location consisting solely of a diagnostic facility, nursing facility, or treatment facility such as a physical or occupational therapy center, or a facility pro-

viding administrative services affiliated with the group practice; or

''(II) an office located in a rural area (as defined in section 1886(d)(2)(D)) if at least 85 percent of the physicians' services furnished at the location are furnished to individuals who reside in such a rural area; and

''(ii) any office location which is located immediately adjacent to another office location shall be treated as the same office location.''.

(2) USE OF BILLING NUMBERS, ETC.—Section 1877 (42 U.S.C. 1395nn) is amended—

(A) in subsection (b)(2)(B), by inserting ''under a billing number assigned to the group practice'' after ''member'',

(B) in subsection (h)(4)(A)(ii), as added by subsection (d)(1), by inserting ''and under a billing number assigned to the group'' after ''in the name of the group'', and

(C) in subsection (h)(4)(A)(iii), as so added, by striking ''by members of the group''.

(3) CONFORMING AMENDMENT.—Section 1877(h) (42 U.S.C. 1395nn(h)) is amended by strik-

ing ''DEFINITIONS.—'' and inserting ''DEFINITIONS AND SPECIAL RULES.—''.

(e) EXPANDING RURAL PROVIDER EXCEPTION TO COVER COMPENSATION ARRANGEMENTS.—

(1) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)) is amended—

(A) by redesignating paragraph (4), as redesignated by subsection (c)(7), as paragraph (5), and

(B) by inserting after paragraph (3) the following new paragraph:

''(4) RURAL PROVIDERS.—In the case of designated health services if—

''(A) the services are furnished in a rural area (as defined in section 1886(d)(2)(D)), and

''(B) substantially all of the services furnished by the entity furnishing the services described in subparagraph (A) are furnished to individuals entitled to benefits under this title who reside in such a rural area.''.

(2) CONFORMING AMENDMENTS.—Section 1877(d) (42 U.S.C. 1395nn(d)) is amended—

(A) by striking paragraph (2), and

(B) by redesignating paragraph (3) as paragraph (2).

(f) EXEMPTION OF COMPENSATION ARRANGEMENTS INVOLVING CERTAIN TYPES OF REMUNERATION.—Section 1877(h)(1) (42 U.S.C. 1395nn(h)(1)) is amended—

(1) in subparagraph (A), by inserting before the period at the end the following: ''other than an arrangement involving only remuneration described in subparagraph (C)'', and

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

''(C) Remuneration described in this subparagraph is any remuneration consisting of any of the following:

''(i) The forgiveness of amounts owed for inaccurate tests or procedures, mistakenly performed tests or procedures, or the correction of minor billing errors.

''(ii) The provision of items, devices, or supplies of minor value that are used to—

''(I) collect, transport, process, or store specimens for the entity providing the item, device, or supply, or

''(II) communicate the results of tests or procedures for such entity.''.

(g) EXCEPTION FOR PUBLICLY-TRADED SECURITIES.—Section 1877(c) (42 U.S.C. 1395nn(c)) is amended—

(1) in the matter preceding paragraph (1), by striking ''on terms generally available to the public'' and inserting ''through public trading on a public exchange or which were inherited''; and

(2) in paragraph (2), by striking ''total assets exceeding $100,000,000'' and inserting ''stockholder equity exceeding $75,000,000''.

(h) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—Section 1877 (42 U.S.C. 1395nn) is amended—

(1) in subsection (b)(2)(A)(i), by striking ''who are employed by such physician or group practice and who are personally'' and inserting ''who are directly'';

(2) in the fourth sentence of subsection (f)—

(A) by striking ''provided'' and inserting ''furnished'', and

(B) by striking ''provides'' and inserting ''furnish'';

(3) in the last sentence of subsection (f)—

(A) by striking ''providing'' each place it appears and inserting ''furnishing'',

(B) by striking ''with respect to the providers'' and inserting ''with respect to the entities'', and

(C) by striking ''diagnostic imaging services of any type'' and inserting ''magnetic resonance imaging, computerized axial tomography scans, and ultrasound services''; and

(4) in subsection (a)(2)(B), by striking ''subsection (h)(1)(A)'' and inserting ''subsection (h)(1)''.

(i) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to referrals made on or after January 1, 1992.

(2) The amendments made by subsection (a) apply with respect to a referral by a physician for designated health services (as defined in section 1877(h)(6) of the Social Security Act) made after December 31, 1994.

SEC. 7305. REDUCTION IN PAYMENT FOR ERYTHROPOIETIN.

(a) IN GENERAL.—Section 1881(b)(11)(B)(ii)(I) (42 U.S.C. 1395rr(b)(11)(B)(ii)(I)) is amended—

(1) by striking ''1991'' and inserting ''1994'', and

(2) by striking ''$11'' and inserting ''$10''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to erythropoietin furnished after 1993.

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.

(a) IN GENERAL.—Section 1905(a) (42 U.S.C. 1396d(a)), as amended by subsection (b), is amended—

(1) in paragraph (7), by striking ''including personal care services'' and all that follows through ''nursing facility'';

(2) in paragraph (23), by striking ''and'' at the end;

(3) by redesignating paragraph (24) as paragraph (25); and

(4) by inserting after paragraph (23) the following new paragraph:

''(24) personal care services furnished to an individual who is not an inpatient or resident of a nursing facility or other medical institution that are (A) authorized by a physician for the individual in accordance with a plan of treatment, (B) provided by an individual who is qualified to provide such

services and who is not a member of the individual's family, (C) supervised by a registered nurse, and (D) furnished in a home or other location; and''.

(b) REDESIGNATIONS TO PARAGRAPHS ADDED BY OBRA–1990.—Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(1) by striking ''and'' at the end of paragraph (21);

(2) in paragraph (24), by striking the comma at the end and inserting ''; and''; and

(3) by redesignating paragraphs (22), (23), and (24) as paragraphs (24), (22), and (23), respectively, and by transferring and inserting paragraph (24), as so redesignated, after paragraph (23), as so redesignated.

(c) CONFORMING AMENDMENTS.—(1) Section 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by striking ''through (21)'' and inserting ''through (24)''.

(2) Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking ''through (22)'' and inserting ''through (25)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment 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,

and other appropriate individuals appointed by the Governor of the State or, at the option of the State, the State's drug use review board established under subsection (g)(3).

''(B) The formulary includes each covered outpatient drug of a manufacturer which has entered into and complies with an agreement under subsection (a) unless the drug is contained in the list referred to in paragraph (2) or excluded in accordance with subparagraph (C).

''(C)(i) The committee may exclude a covered outpatient drug with respect to the treatment of a specific disease or condition for an identified population (if any) only if the committee finds that the excluded drug does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome of such treatment for such population over other drugs included in the formulary.

''(ii) The committee's finding under clause (i) shall be based on—

''(I) the drug's labeling, or

"(II) in the case of a drug the prescribed use of which is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted indication, on information from the appropriate compendia described in subsection (k)(6).

"(D) With respect to a recommendation to exclude a covered outpatient drug from the formulary or to exclude a prescribed use of such a drug, the committee issues a written explanation of its recommendation that is available to the public.

"(E) The State plan permits coverage of a drug excluded from the formulary pursuant to a prior authorization program that is consistent with paragraph (5) unless the drug is contained in the list referred to in paragraph (2).

"(F) The formulary meets such other requirements as the Secretary may impose.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not regulations to carry out such amendments have been promulgated by such date.

SEC. 7412. ELIMINATION OF SPECIAL EXEMPTION FROM PRIOR AUTHORIZATION FOR NEW DRUGS.

(a) IN GENERAL.—Section 1927(d) (42 U.S.C. 1396r–8(d)) is amended by striking paragraph (6).

(b) CONFORMING AMENDMENT.—(1) Section 1927(d)(1)(A) (42 U.S.C. 1396r–8(d)(1)(A)) is amended by striking ''Except as provided in paragraph (6), a State'' and inserting ''A State''.

(2) Section 1927(d)(3) (42 U.S.C. 1396r–8(d)(3)) is amended by striking ''(except with respect'' and all that follows through ''of this paragraph)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not regulations to carry out such amendments have been promulgated by such date.

SEC. 7413. MODIFICATIONS TO DRUG REBATE PROGRAM.

(a) ELIMINATION OF ADDITIONAL REBATE BASED ON WEIGHTED AVERAGE MANUFACTURER PRICE.—Paragraph (2) of section 1927(c) (42 U.S.C. 1396r–8(c)) is amended to read as follows:

''(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—

''(A) IN GENERAL.—The amount of the rebate for a calendar quarter with respect to each dosage form and strength of a single source

drug or an innovator multiple source drug, is increased by an amount equal to the product of—

''(i) the total number of dosage units dispensed after December 31, 1990, for which payment was made under the State plan for the period reported by the State under subsection (b)(2), and

''(ii) the amount (if any) by which—

''(I) the average manufacturer price for the dosage form and strength of the drug for the period, exceeds

''(II) the average manufacturer price for such dosage form and strength for the calendar quarter beginning July 1, 1990, increased by the percentage by which the average of the consumer price indices for all urban consumers (U.S. city average) for months during the calendar quarter exceeds such index for September 1990.

''(B) SPECIAL RULE.—In the case of a covered outpatient drug approved by the Food

and Drug Administration after October 1, 1990, subclause (II) of subparagraph (A)(ii) shall be applied by substituting 'the first full calendar quarter after the drug was marketed' for 'the calendar quarter beginning July 1, 1990' and 'the month prior to the first month of the first full calendar quarter after the drug was marketed' for 'September 1990'.''.

(b) BASE DATE FOR COVERED OUTPATIENT DRUG SOLD OR TRANSFERRED.—Paragraph (2) of section 1927(c) (42 U.S.C. 1396r–8(c)), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

''(C) BASE DATE FOR COVERED OUTPATIENT DRUG SOLD OR TRANSFERRED.—For purposes of computing the additional rebate under this paragraph for any covered outpatient drug that is sold or transferred to any entity, including a division or subsidiary of a manufacturer, the base date for such drug after such sale or transfer shall be the original base date established for such drug.''.

(c) MAXIMUM ALLOWABLE COST LIMITATIONS.—Section 1927 (42 U.S.C. 1396r–8) is amended by adding at the end the following new subsection:

"(l) MAXIMUM ALLOWABLE COST LIMITATIONS.—This section shall not supersede or affect provisions in effect prior to January 1, 1991, relating to maximum allowable cost limitations for payment by States for covered outpatient drugs, and rebates under this section shall be made without regard to whether or not payment by the State for such drugs is subject to such limitations or the amount of such cost limitations.".

(d) EFFECTIVE DATES.—(1) The amendments made by subsections (a) and (c) shall be effective as if included in the enactment of section 4401 of OBRA–1990.

(2) The amendment made by subsection (b) shall be effective on the date of the enactment of this Act.

Subpart C—Restrictions on Divestiture of Assets and Estate Recovery

SEC. 7421. MEDICAID ESTATE RECOVERIES.

(a) MANDATE TO SEEK RECOVERY.—The matter preceding subparagraph (A) of section 1917(b)(1) (42 U.S.C. 1396p(b)(1)) is amended to read as follows: "The State agency shall seek adjustment or recovery of any medical assistance correctly paid on behalf of an individual under the State plan—".

(b) HARDSHIP WAIVER.—Section 1917(b) (42 U.S.C. 1396p(b)) is amended by adding at the end the following new paragraph:

''(3) The State agency shall establish procedures (in accordance with standards specified by the Secretary) under which the agency shall waive the application of this subsection if such application would work an undue hardship as determined on the basis of criteria established by the Secretary.''.

(c) DEFINITION OF ESTATE.—Section 1917(b) (42 U.S.C. 1396p(b)), as amended by subsection (b), is amended by adding at the end the following new paragraph:

''(4) DEFINITION.—For purposes of this section, the term 'estate', with respect to a deceased individual—

''(A) shall include all real and personal property and other assets included within the individual's estate, as defined for purposes of State law with respect to inheritance, and

''(B) may include, at the option of the State, any or all other real or personal property or other assets in which the individual had any legal title or interest at the time of death, including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.''.

(d) EFFECTIVE DATE.—(1)(A) Except as provided in subparagraph (B), the amendments made by this section shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1993.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements imposed by such amendments solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(2) The amendments made by this section shall not apply to individuals who died before October 1, 1993.

SEC. 7422. TRANSFERS OF ASSETS.

(a) MANDATORY AND OPTIONAL PERIODS OF INELIGIBILITY.—Section 1917(c) (42 U.S.C. 1396p(c)) is amended—

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

''(1)(A) In order to meet the requirements of this subsection for purposes of section 1902(a)(18), the State plan shall provide that any institutionalized individual (or the spouse of such individual) who disposes of assets for less than fair market value on the date specified in subparagraph (B)(ii), or at any time thereafter during such individual's lifetime, is ineligible for medical assistance for—

''(i) nursing facility services,

''(ii) a level of care in any institution equivalent to that of nursing facility services, and

''(iii) home or community-based services under subsection (c) or (d) of section 1915,

during any and all applicable periods specified in paragraph (2).

''(B)(i) The date specified in this clause, with respect to an institutionalized individual, is the first date as of which the individual—

''(I) is an institutionalized individual, and

''(II) has applied for or is receiving medical assistance under the State plan.

''(ii) The date specified in this clause, with respect to an institutionalized individual, is the date 30 months before the date specified in clause (i) (or, at the option of the State, such earlier date as provided by the State in accordance with paragraph (3)(A)(iii)).'';

(2) by redesignating paragraphs (2) through (5) as paragraphs (4) through (7) and by inserting after paragraph (1) the following new paragraphs:

''(2) The period of ineligibility required under paragraph (1) with respect to an institutionalized individual—

''(A) shall be a number of months equal to—

''(i) the total uncompensated value of all assets transferred by the individual or the individual's spouse on or after the date specified in paragraph (1)(B)(ii), divided by

''(ii) the average cost to a private patient of nursing facility services in the State (or, at the option of the State, in the community in which the individual is institutionalized) on the date specified in paragraph (1)(B)(i) based on costs which include the cost of services included in the State's nursing facility reimbursement rate; and

''(B) shall begin with the first month in which—

''(i) the individual—

''(I) is an institutionalized individual,

''(II) is (or but for the provisions of this subsection would be) entitled to have medical assistance paid under the State plan for services specified under paragraph (1), and

''(III) is receiving or is an applicant for such medical assistance, and

''(ii) the State has become aware that assets have been transferred.

''(3)(A) The State plan may include, in accordance with this paragraph, any or all of the following provisions concerning eligibility for medical assistance of individuals who (or whose spouses) dispose of assets for less than fair market value:

''(i) The State plan may provide for periods of ineligibility for medical assistance for long-term care services specified by the State and approved by the Secretary for any or all individuals (or groups of individuals) otherwise eligible for such medical assistance, in addition to the individuals specified in paragraph (1).

''(ii) Subject to such restrictions as the Secretary may impose, the State plan may provide for periods of ineligibility for medical assistance for any long-term care services (in addition to the services specified in paragraph (1)(A)) for which medical assistance is otherwise available under the plan.

''(iii) The State plan may provide for a date on and after which transfers of assets are subject to review earlier than the date specified in paragraph (1)(B)(ii), but not earlier than 4 years before—

''(I) in the case of an institutionalized individual, the date specified in paragraph (1)(B)(i), or

''(II) in the case of any other individual, the date on which the individual applied for medical assistance under the State plan.

''(B)(i) The period of ineligibility imposed by the State pursuant to this paragraph for services other than those specified in paragraph (1)(A) shall not be longer than the period of ineligibility that would have resulted if the individual had expended the assets transferred for the costs of medical care furnished on and after the date the individual applied for medical assistance, as determined by the State in accordance with clause (ii).

''(ii) In determining the period of ineligibility of an individual pursuant to clause (i), the State—

''(I) may presume that the individual's cost of medical care furnished is equal to the average cost to a private patient for such care on a daily, monthly, or other basis, or

''(II) may use any other method approved by the Secretary.'';

(3) in paragraph (4), as redesignated—

(A) by amending subparagraph (B) to read as follows:

''(B) the resources—

''(i) were transferred to the individual's spouse or to another for the sole benefit of the individual's spouse and did not exceed the amount permitted under section 1924(f)(1);

''(ii) were transferred from the individual's spouse to another for the sole benefit of the individual's spouse and did not exceed the amount permitted under section 1924(f)(1); or

''(iii) were transferred to the individual's child described in subparagraph (A)(ii)(II);'';

(B) in subparagraph (C)—

(i) by striking ''any'';

(ii) by striking ''or (ii)'' and inserting ''(ii)''; and

(iii) by striking ''; or'' and inserting '', or (iii) all assets transferred by an individual for less than fair market value have been returned to the individual;'';

(C) by amending subparagraph (D) to read as follows:

''(D) the State determines (in accordance with regulations promulgated by the Secretary) that denial of eligibility would work an undue hardship; or'';

(D) by adding at the end the following new subparagraph:

''(E) the State determines that the total fair market value of all of the assets transferred by the individual during the period between the date specified in paragraph (1)(B)(i) and the date specified by the State under paragraph (1)(B)(ii) are below an amount determined appropriate by the State and approved by the Secretary.''; and

(E) by adding at the end the following flush sentence:

''In determining whether an individual has made a satisfactory showing to the State under subparagraph (C)(ii),

the State shall consider the individual's health status at the time of the transfer of assets and whether, at the time of such transfer, the individual retained assets sufficient to meet the individual's foreseeable future health care needs based on such health status.'';

(4) by striking paragraph (5), as redesignated, and inserting the following:

''(5) For purposes of this subsection, in the case of an asset held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the asset (or the affected portion of such asset) shall be considered to be transferred by such individual when any action is taken, either by such individual or by any other person, that reduces or eliminates such individual's ownership or control of such asset, except to the extent an action taken by a person other than the individual is an action consistent with partial ownership of the asset, as provided in regulations issued by the Secretary.'';

(5) by adding the following at the end of paragraph (6), as redesignated: ''In the case of a transfer by the spouse of an institutionalized individual which results in a period of ineligibility for medical assistance under a State plan for the institutionalized individual, a State shall apply a reasonable

methodology to transfer all or a portion of any such period of ineligibility to such spouse if the spouse becomes an institutionalized individual.''; and

(6) by amending paragraph (7), as redesignated, to read as follows:

''(7) For purposes of this subsection:

''(A) The term 'assets', with respect to an individual, includes all income and resources of the individual and of the individual's spouse, including any income or resources which the individual or such individual's spouse is entitled to but does not receive because of action—

''(i) by the individual or such individual's spouse,

''(ii) by a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or such individual's spouse, or

''(iii) by any person, including any court or administrative body, acting at the direction or upon the request of the individual or such individual's spouse.

''(B) The term 'income' has the meaning given such term in section 1612.

''(C) The term 'resources' has the meaning given such term in section 1613, without regard (in the case of an institutionalized individual) to the exclusion described in subsection (a)(1) of such section.

''(D) The term 'institutionalized individual' means, and the term 'individual is institutionalized' refers to, an individual receiving any of the services specified in paragraph (1)(A).''.

(b) CONFORMING AMENDMENTS.—(1) Section 1902(a)(51) (42 U.S.C. 1396a(a)(51)) is amended—

(A) by striking ''(A)''; and

(B) by striking '', and (B)'' and all that follows and inserting a semicolon.

(2) Section 1924(f)(1) (42 U.S.C. 1396r–5(f)(1)) is amended by striking ''transfer an amount'' and inserting ''transfer an amount sufficient to make the resources of the community spouse''.

(c) REQUIREMENTS FOR NURSING FACILITIES.—

(1) MEDICAID PROGRAM.—Section 1919(c)(5)(A)(i) (42 U.S.C. 1396r(c)(5)(A)(i)) is amended by striking ''and (III)'' and inserting ''(III) not require individuals applying to reside or residing in the facility, or family members of such individuals, to provide any financial information other than

to identify the source of payment for such individual's stay in the facility, and (IV)''.

(2) MEDICARE PROGRAM.—Section 1819(c)(5)(A)(i) (42 U.S.C. 1395i–3(c)(5)(A)(i)) is amended by striking ''and (III)'' and inserting ''(III) not require individuals applying to reside or residing in the facility, or family members of such individuals, to provide any financial information other than to identify the source of payment for such individual's stay in the facility, and (IV)''.

(d) EFFECTIVE DATE.—(1)(A) Except as provided in subparagraph (B), the amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1993.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements imposed by such amendments solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the

State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(2) The amendments made by this section shall not apply with respect to assets disposed of before the date which is 60 days after the date of the enactment of this Act.

SEC. 7423. TREATMENT OF CERTAIN TRUSTS.

(a) IN GENERAL.—Section 1917 (42 U.S.C. 1396p) is amended by adding at the end the following:

''(d)(1) For purposes of determining an individual's eligibility for, or amount of, benefits under a State plan under this title, the following rules shall apply to a trust established by such individual:

''(A) In the case of a revocable trust—

''(i) the corpus of the trust shall be considered resources available to the individual,

''(ii) payments from the trust to or for the benefit of the individual shall be considered income of the individual, and

''(iii) any other payments from the trust shall be considered a transfer of assets by the individual subject to subsection (c).

''(B) In the case of an irrevocable trust—

''(i) the portion of the corpus from which, or the income on the corpus from which, payment to the individual could be made shall be considered resources available to the individual, and payments from that portion of the corpus or income—

''(I) to or for the benefit of the individual, shall be considered income of the individual, and

''(II) for any other purpose, shall be considered a transfer of assets by the individual subject to subsection (c); and

''(ii) any portion of the trust from which, or any income on the corpus from which, no payment could under any circumstances be made to the individual shall be considered, as of the date of establishment of the trust (or, if later, the date on which payment to the individual was foreclosed) a transfer of assets by the individual subject to subsection (c), and payments from such portion of the trust after such date shall be disregarded.

''(2)(A) For purposes of this subsection, an individual shall be considered to have established a trust if—

''(i) any of the following individuals established such trust other than by will:

''(I) the individual,

''(II) the individual's spouse,

''(III) a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse, or

''(IV) a person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse; and

''(ii) assets of the individual were used to form all or part of the corpus of the trust.

''(B) In the case of a trust the corpus of which includes assets of an individual (as determined under subparagraph (A)) and assets of any other person or persons, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual.

''(3) This subsection shall apply without regard to—

''(A) the purposes for which a trust is established,

''(B) whether the trustees have or exercise any discretion under the trust,

''(C) any restrictions on when or whether distributions may be made from the trust, or

''(D) any restrictions on the use of distributions from the trust.

''(4)(A) This subsection shall not apply to any of the following trusts:

''(i) A trust containing the assets of a disabled individual (as determined under section 1614(a)(3)) established for the benefit of such individual by a parent, grandparent, legal guardian of the individual, or a court if the State will receive all amounts remaining in the trust upon the death of such individual up to an amount equal to the total medical assistance received by the individual under a State plan under this title.

''(ii) A trust established in a State for the benefit of an individual if—

''(I) the trust is composed only of pension, Social Security, and other income to the individual (and accumulated income in the trust),

''(II) the State will receive all amounts remaining in the trust upon the death of such individual up to an amount equal to the total medical assistance received by the individual under a State plan under this title, and

''(III) the State makes medical assistance available to individuals described in section 1902(a)(10)(A)(ii)(V), but does not make such assistance available to individuals for nursing facility services under section 1902(a)(10)(C).

''(B) For purposes of this subsection, the term 'trust' includes any legal instrument or device that is similar to a trust but includes an annuity only to such extent and in such manner as the Secretary specifies.

''(C) The State agency shall establish procedures (in accordance with standards specified by the Secretary) under which the agency waives the application of this subsection with respect to an individual if the individual establishes that such application would work an undue hardship on the individual as determined on the basis of criteria established by the Secretary.

''(5) For purposes of this subsection, the terms 'assets', 'income', and 'resources' shall have the meaning given to such terms under subsection (c)(7).''.

(b) CONFORMING AMENDMENTS.—(1) Section 1902(a)(18) (42 U.S.C. 1396a(a)(18)) is amended by striking ''and transfers of assets'' and inserting '', transfers of assets, and treatment of certain trusts''.

(2) Section 1902 (42 U.S.C. 1396a) is amended by repealing subsection (k).

(c) EFFECTIVE DATE.—(1)(A) Except as provided in subparagraph (B), the amendments made by this section shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1993.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements imposed by such amendments solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(2) The amendments made by this section shall not apply with respect to trusts established before the date which is 60 days after the date of the enactment of this Act.

Subpart D—Improvement in Identification and Collection of Third Party Payments

SEC. 7431. LIABILITY OF THIRD PARTIES TO PAY FOR CARE AND SERVICES.

(a) LIABILITY OF ERISA PLANS.—(1) Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended by striking ''insurers)'' and inserting ''insurers, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), service benefit plans, and health maintenance organizations)''.

(2) Section 1903(o) (42 U.S.C. 1396b(o)) is amended by striking ''regulation)'' and inserting ''regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974)), a service benefit plan, and a health maintenance organization''.

(b) REQUIRING STATE TO PROHIBIT INSURERS FROM TAKING MEDICAID STATUS INTO ACCOUNT.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

(1) by striking ''and'' at the end of subparagraph (F);

(2) by adding ''and'' at the end of subparagraph (G); and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) assurances satisfactory to the Secretary that the State has in effect laws which prohibit any health insurer (including a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a service benefit plan, and a health maintenance organization), in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under a plan under this title for such State, or any other State;".

(c) STATE RIGHT TO THIRD PARTY PAYMENTS FOR RECIPIENT.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)), as amended by subsection (b), is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by adding "and" at the end of subparagraph (H); and

(3) by adding after subparagraph (H) the following new subparagraph:

"(I) assurances satisfactory to the Secretary that the State has in effect laws under

which, to the extent that payment has been made under the State plan for medical assistance for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment by any other party for such health care items or services;''.

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsections (a)(1), (b), and (c) shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsections (a) and (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this

Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(3) The amendment made by subsection (a)(2) shall apply to items and services furnished on or after October 1, 1993.

SEC. 7432. MEDICAL CHILD SUPPORT.

(a) STATE PLAN REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by subsection (c), is amended—

(1) by striking ''and'' at the end of paragraph (58);

(2) by striking the period at the end of paragraph (59) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(60) provide that the State agency shall provide assurances satisfactory to the Secretary that the State has in effect the laws relating to medical child support required under section 1908.''.

(b) MEDICAL CHILD SUPPORT LAWS.—Title XIX (42 U.S.C 1936 et seq.) is amended by inserting after section 1907 the following new section:

"REQUIRED LAWS RELATING TO MEDICAL CHILD SUPPORT

"SEC. 1908. (a) IN GENERAL.—The laws relating to medical child support, which a State is required to have in effect under section 1902(a)(60), are as follows:

"(1) A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child's parent on the ground that—

"(A) the child was born out of wedlock,

"(B) the child is not claimed as a dependent on the parent's Federal income tax return, or

"(C) the child does not reside with the parent or in the insurer's service area.

"(2) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, a law that requires such insurer—

"(A) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions and subject to the requirements under paragraph (1)); and

''(B) if such a parent fails to provide such health insurance coverage for any such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV.

''(3) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the State, a law that requires such employer—

''(A) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions and subject to the requirements under paragraph (1));

''(B) if such a parent fails to provide such health insurance coverage for a child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV;

''(C) not to disenroll (or eliminate coverage of) any such child unless the employer is provided satisfactory written evidence that—

''(i) such court or administrative order is no longer in effect, or

''(ii) the child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment; and

''(D) to withhold from such employee's compensation the employee's share (if any) of premiums for health coverage and to pay such share of premiums to the insurer.

''(4) A law that prohibits an insurer from imposing requirements on a State agency, which has been assigned the rights of an individual eligible for medical assistance under this title and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

''(5) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—

''(A) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage;

''(B) to permit the custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent; and

''(C) to make payment on claims submitted in accordance with subparagraph (B) directly to such custodial parent, the provider, or the State agency.

''(6) A law that permits the State agency under this title to garnish the wages, salary, or other employment income of, and requires withholding amounts from State tax refunds to, any person who—

''(A) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under this title,

''(B) has received payment from a third party for the costs of such services to such child, but

''(C) has not used such payments to reimburse, as appropriate, either the other parent or

guardian of such child or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.

''(b) SPECIAL RULE.—The Secretary may provide by regulation for such exceptions to the requirement under subsection (a)(3) as the Secretary determines necessary to ensure compliance with the conditions of any order referred to in such subsection or with the maximum amounts permitted to be withheld under section 303(b) of the Consumer Credit Protection Act.

''(c) DEFINITION.—For purposes of this subsection, the term 'insurer' includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a service benefit plan.''.

(c) REDESIGNATIONS TO PARAGRAPHS ADDED BY OBRA–1990.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking ''and'' at the end of paragraph (54);

(2) in the paragraph (55) inserted by section 4602(a)(3) of OBRA–1990, by striking the period at the end and inserting a semicolon;

(3) by redesignating the paragraph (55) inserted by section 4604(b)(3) of OBRA–1990 as paragraph (56), by transferring and inserting it after the paragraph (55) inserted by section 4602(a)(3) of such Act, and by striking the period at the end and inserting a semicolon;

(4) by placing paragraphs (57) and (58), inserted by section 4751(a)(1)(C) of OBRA–1990, immediately after paragraph (56), as redesignated by paragraph (3);

(5) in the paragraph (58) inserted by section 4751(a)(1)(C) of OBRA–1990, by striking the period at the end and inserting ''; and''; and

(6) by redesignating the paragraph (58) inserted by section 4752(c)(1)(C) of OBRA–1990 as paragraph (59) and by transferring and inserting it after the paragraph (58) inserted by section 4751(a)(1)(C) of such Act.

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section apply to calendar quarters beginning on or after April 1, 1994.

(2) In the case of a State plan under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 7433. OFFSET OF PAYMENT OBLIGATIONS RELATING TO MEDICAL ASSISTANCE AGAINST OVERPAYMENTS OF STATE AND FEDERAL INCOME TAXES.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Section 6402 of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), and (j), respectively; and

(B) by adding after subsection (d) the following new subsection:

''(e) COLLECTION OF CERTAIN DEBTS OWED TO STATES.—

''(1) IN GENERAL.—Upon receiving notice from any State under section 1931(b)(1) of the Social Security Act that a named person owes a legally enforceable debt for any payment obligation relating to medical assistance, the Secretary shall—

''(A) reduce the amount of any overpayment payable to such person by the amount of such debt;

''(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State; and

''(C) notify the person making such overpayment that such overpayment has been reduced by an amount necessary to satisfy such debt.

''(2) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection after such overpayment is reduced pursu-

ant to subsections (c) and (d) and before such overpayment is credited to the future liability for tax of such person pursuant to subsection (b). Any overpayment by a person shall be applied against any debts described in paragraph (1) in the order in which such debts accrued.

''(3) NOTICE; PROTECTION OF OTHER PERSONS FILING JOINT RETURN.—For purposes of this subsection, rules similar to the rules described in clause (i) and the first sentence of clause (ii) of subsection (d)(3)(B) shall apply.

''(4) DEFINITION.—For purposes of this subsection, the term 'medical assistance' means medical assistance provided under title XIX of the Social Security Act.''.

(2) CONFORMING AMENDMENT.—Section 6402(f) of the Internal Revenue Code of 1986, as redesignated, is amended by striking ''(c) or (d)'' and inserting ''(c), (d), or (e)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective for taxable years beginning after December 31, 1993.

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

(1) STATE PLAN AMENDMENT.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by section 7432, is amended—

(A) by striking ''and'' at the end of paragraph (59);

(B) by striking the period at the end of paragraph (60) and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(61) provide that recovery of any legally enforceable debt for any payment obligation relating to medical assistance provided under this title shall be made in accordance with a program for the collection of such debt from State and Federal tax refunds in accordance with section 1931.''.

(2) PROGRAM FOR COLLECTIONS FROM STATE AND FEDERAL TAX REFUNDS.—Title XIX (42 U.S.C 1936 et seq.) is amended by adding at the end the following new section:

''COLLECTION OF PAYMENT OBLIGATIONS RELATING TO MEDICAL ASSISTANCE FROM STATE AND FEDERAL TAX REFUNDS

''SEC. 1931. (a) STATE TAX REFUNDS.—If a State with a State plan approved under this title has a State income tax system, such State shall require the State agency administering the State plan and the State agency

responsible for administering the States income tax system to develop and implement a program under which any person determined appropriate by the State agency administering the State plan who owes a legally enforceable debt for any payment obligation relating to medical assistance provided under this title will have withheld an appropriate amount from any refund otherwise payable to such person under the State income tax system.

''(b) FEDERAL TAX REFUNDS.—

''(1) NOTICE TO THE SECRETARY OF THE TREASURY.—

''(A) IN GENERAL.—If a State with a State plan approved under this title—

''(i) implements a program described in subsection (a), or

''(ii) is a State that does not have a State income tax system,

the State agency administering such plan may provide a notice to the Secretary of the Treasury regarding any person determined appropriate by such State agency who owes a legally enforceable debt for any payment obligation relating to medical assistance provided under this title and the Secretary of the Treasury shall withhold an appropriate amount from any re-

fund otherwise payable to such person in accordance with section 6402(e) of the Internal Revenue Code of 1986 (hereafter in this section referred to as the 'Code').

''(B) REGULATIONS RELATING TO NOTICES.—The Secretary of the Treasury shall issue regulations, after consultation with the Secretary, which—

''(i) prescribe the timing by which State agencies may submit notices of payment obligations relating to medical assistance,

''(ii) specify the manner in which such notices must be submitted,

''(iii) specify the necessary information that must be contained in or accompany such notices,

''(iv) specify the minimum payment obligation relating to medical assistance to which the offset procedures may be applied,

''(v) specify the fee that a State must pay to reimburse the Secretary of the Treasury for the full cost of applying the offset procedure, and

"(vi) provide that the Secretary of the Treasury will advise the Secretary, not less frequently than annually, of the States which have furnished notices under this subsection, the number of cases in each State with respect to which such notices have been furnished, the total amount of payment obligations sought to be collected under this subsection by each State, and the amount of such collections actually made in the case of each State.

"(2) NOTICE.—Prior to notifying the Secretary of the Treasury under paragraph (1), the State agency shall send a notice to the person owing the legally enforceable debt for a payment obligation relating to medical assistance provided under this title which—

"(A) explains that a withholding may be made under 6402(e) of the Code from any refund otherwise payable to such person,

"(B) instructs the person having the payment obligation of the steps which may be taken to contest the State's determination that such payment obligation is owed or the amount of the payment obligation, and

''(C) provides information with respect to procedures to be followed, in the case of a joint return, to protect the share of the refund which may be payable to another person.

''(3) EXCESS WITHHOLDING.—In any case in which an amount was withheld under section 6402(e) of the Code and the State subsequently determines that the amount certified as owing with respect to medical assistance was in excess of the amount actually owed at the time the amount withheld is distributed to the State, the State shall pay the excess amount withheld to the named person determined to have the payment obligation (or, in the case of amounts withheld on the basis of a joint return, jointly to the parties filing such return).''.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this paragraph shall apply to calendar quarters beginning on or after December 31, 1993.

(B) SPECIAL RULE.—In the case of a State which the Secretary determines requires State legislation (other than legislation authorizing or appropriating funds) in order to comply with the amendments made by subparagraph (A), the State shall not be regarded as failing

to comply with such amendments solely on the basis of its failure to meet the requirements of such amendments before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Subpart E—Assuring Proper Payments to Disproportionate Share Hospitals

SEC. 7441. ASSURING PROPER PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS.

(a) DISPROPORTIONATE SHARE HOSPITALS REQUIRED TO PROVIDE MINIMUM LEVEL OF SERVICES TO MEDICAID PATIENTS.—Section 1923 (42 U.S.C. 1396r–4) is amended—

(1) in subsection (a)(1)(A), by striking ''requirement'' and inserting ''requirements'';

(2) in subsection (b)(1), by striking ''requirement'' and inserting ''requirements'';

(3) in the heading to subsection (d), by striking ''REQUIREMENT'' and inserting ''REQUIREMENTS'';

(4) by adding at the end of subsection (d) the following new paragraph:

''(3) No hospital may be defined or deemed as a disproportionate share hospital under a State plan under this title or under subsection (b) or (e) of this section unless the hospital has a medicaid inpatient utilization rate (as defined in subsection (b)(2)) of not less than 1 percent.'';

(5) in subsection (e)(1)—

(A) by striking ''and'' before ''(B)'', and

(B) by inserting before the period at the end the following: '', and (C) the plan meets the requirement of subsection (d)(3) and such payment adjustments are made consistent with the fourth sentence of subsection (c)''; and

(6) in subsection (e)(2)—

(A) in subparagraph (A), by inserting ''(other than the fourth sentence of subsection (c))'' after ''(c)'',

(B) by striking ''and'' at the end of subparagraph (A),

(C) by striking the period at the end of subparagraph (B) and inserting '', and'', and

(D) by adding at the end the following new subparagraph:

''(C) subsection (d)(3) shall apply.''.

(b) LIMITING AMOUNT OF PAYMENT ADJUSTMENTS FOR STATE OR COUNTY HOSPITALS TO UNCOVERED COSTS.—Subsection (c) of section 1923 (42 U.S.C. 1396r–4) is amended by adding at the end the following: ''A payment adjustment during a year is not considered to be consistent with this subsection with respect to a hospital owned or operated by a State (or by an instrumentality of, or a unit of government within, a State) if the payment adjustment exceeds the costs incurred during the year of furnishing hospital services (as determined by the Secretary and net of payments under this title, other than under this section, and by uninsured patients) by the hospital to individuals who either are eligible for medical assistance under the State plan or have no health insurance (or other source of third party coverage) for services provided during the year. For purposes of the preceding sentence, payments made to a hospital for services provided to indigent patients made by a State or a unit of local government within a State shall not be considered to be a source of third party payment.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments to States under section 1903(a) of the Social Security Act which are for pay-

ments to hospitals made under State plans after the end of the State fiscal year that ends during 1995.

Subpart F—Anti-Fraud and Abuse Provisions

SEC. 7451. APPLICATION OF MEDICARE RULES LIMITING CERTAIN PHYSICIAN REFERRALS.

(a) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by subsection (b), is amended—

(1) in paragraph (12), by striking ''or'' at the end,

(2) in paragraph (13), by striking the period at the end and inserting ''; or'', and

(3) by inserting after paragraph (13) the following new paragraph:

''(14) with respect to any amount expended for an item or service for which payment would be denied under section 1877(g)(1) if the item or service were furnished to an individual entitled to benefits under title XVIII.''.

(b) REDESIGNATIONS.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by section 2(b)(2) of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, is amended—

(1) by redesignating the paragraph (12) inserted by section 4752(a)(2) of OBRA–1990 as paragraph (11), by transferring and inserting it

after the paragraph (10) inserted by section 4401(a)(1)(B) of OBRA–1990, and by striking the period at the end and inserting a semicolon;

(2) by redesignating the paragraph (14) inserted by section 4752(e) of OBRA–1990 as paragraph (12), by transferring and inserting it after paragraph (11), as redesignated by paragraph (2), and by striking the period at the end and inserting ''; or''; and

(3) by redesignating the paragraph (11) inserted by section 4801(e)(16)(A) of OBRA–1990 as paragraph (13) and by transferring and inserting it after paragraph (12), as redesignated by paragraph (3), and by striking ''; or'' and inserting a period.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after October 1, 1993.

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.

(a) IN GENERAL.—Section 4745 of OBRA–1990 is amended—

(1) in paragraph (1) of subsection (e), by striking ''$12,000,000 in each of fiscal years 1991, 1992, and 1993, and to no more than $4,000,000 in fiscal year 1994'' and inserting ''$40,000,000''; and

(2) in paragraph (2) of subsection (f) by striking ''January 1, 1995'' and inserting ''one year after the termination of the projects''.

(b) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA–1990.

Subtitle C—Income Security Programs

SEC. 7601. MATCHING OF STATE ADMINISTRATIVE COSTS.

(a) AFDC MATCHING.—Section 403(a)(3) (42 U.S.C. 603(a)(3)) is amended to read as follows:

''(3) in the case of any State, 50 percent of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, except that no payment shall be made with respect to amounts expended in connection with the provision of any service described in section 2002(a) of this Act other than services furnished pursuant to section 402(g); and''.

(b) TERRITORIAL PROGRAMS FOR AGED, BLIND, AND DISABLED.—Sections 3(a)(4), 1003(a)(3), 1403(a)(3), and 1603(a)(4) (42 U.S.C. 303(a)(3), 1203(a)(3), 1353(a)(3), and 1383 note) (as in effect as provided by section 303 of the Social Security Amendments of 1972) are each amended by striking ''the sum of'' and all that follows and inserting ''50 percent of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.''.

(c) REQUIREMENTS FOR ATTESTING TO CITIZENSHIP STATUS.—Paragraph (1)(A) of section 1137(d) (42 U.S.C. 1320b–7(d)) is amended to read as follows:

''(1)(A) The State shall require, as a condition of an individual's eligibility for benefits under a program listed in subsection (b), a declaration in writing, under penalty of perjury—

''(i) by the individual,

''(ii) in the case in which eligibility for program benefits is determined on a family or household basis, by any adult member of such individual's family or household (as applicable), or

''(iii) in the case of an individual born into a family or household receiving benefits under

such program, by any adult member of such family or household no later than the next redetermination of eligibility of such family or household following the birth of such individual, stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by—

(A) subsections (a) and (b) shall be effective with respect to calendar quarters beginning on or after April 1, 1994, and

(B) subsection (c) shall be effective on and after the date of the enactment of this Act.

(2) SPECIAL RULE.—In the case of a State whose legislature meets biennially, and does not have a regular session scheduled in calendar year 1994, the amendments made by subsections (a) and (b) shall be effective no later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

SEC. 7602. STATE PATERNITY ESTABLISHMENT PROGRAMS.

(a) PERFORMANCE STANDARDS FOR STATE PATERNITY ESTABLISHMENT PROGRAMS.—Section 452(g) (42 U.S.C. 652(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''1991'' and inserting ''1994'';

(B) by inserting ''is based on reliable data and'' before ''equals or exceeds''; and

(C) by striking subparagraphs (A), (B), and (C) and inserting the following new subparagraphs:

''(A) 75 percent;

''(B) for a State with a paternity establishment percentage of not less than 50 percent but less than 75 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 3 percentage points; or

''(C) for a State with a paternity establishment percentage of less than 50 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 6 percentage points.''; and

(2) in paragraph (2)—

(A) by striking ''(or under all such plans)'' each place it appears;

(B) by inserting ''or part (E)'' after ''under part A'' each place it appears;

(C) by striking subparagraph (B) and inserting the following new subparagraph:

''(B) the term 'reliable data' means the most recent data available which are found by the Secretary to be reliable for purposes of this section.'';

(D) by inserting ''unless paternity is established for such child'' after ''the death of a parent''; and

(E) by inserting ''or any child with respect to whom the State agency administering the plan under part E determines (as provided in section 454(4)(B)) that it is against the best interest of such child to do so'' after ''cooperate under section 402(a)(26)''.

(b) STATE PLAN REQUIREMENTS FOR THE ESTABLISHMENT OF PATERNITY.—Section 466(a) (42 U.S.C. 666(a)) is amended—

(1) in paragraph (2)—

(A) by striking ''at the option of the State,''; and

(B) by inserting ''or paternity establishment'' after ''support order issuance and enforcement'';

(2) in paragraph (5) by adding at the end the following new subparagraphs:

''(C) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that the rights and responsibilities of acknowledging paternity are explained and ensure that due process safeguards are afforded. Such procedures must include (i) a hospital-based program for the voluntary acknowledgment of paternity during the period immediately preceding or following the birth of a child, and (ii) the inclusion of signature lines on applications for official birth certificates which, once signed by the father and the mother, constitute a voluntary acknowledgment of paternity.

''(D) Procedures under which the voluntary acknowledgment of paternity creates a rebuttable, or at the option of the State, conclusive presumption of paternity, and under which such voluntary acknowledgment is admissible as evidence of paternity.

''(E) Procedures under which the voluntary acknowledgment of paternity must be recognized as a basis for seeking a support order without first requiring any further proceedings to establish paternity.

''(F) Procedures which provide that (i) any objection to genetic testing results must be made in writing within a specified number of days before any hearing at which such results may be introduced into evidence, and (ii) if no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

''(G) Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability of the alleged father being the father of the child.

''(H) Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendent and any additional showing required by State law.''; and

(3) by inserting after paragraph (10) the following new paragraph:

''(11) Procedures under which a State must give full faith and credit to a determination of paternity made by any other State, whether established through voluntary acknowledgment or through administrative or judicial processes.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to a State on the later of—

(1) October 1, 1993 or,

(2) the date of enactment by the legislature of such State of all laws required by such amendments, but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 7603. FEES FOR FEDERAL ADMINISTRATION OF STATE SUPPLEMENTARY PAYMENTS.

(a) IN GENERAL.—

(1) OPTIONAL STATE SUPPLEMENTARY PAYMENTS.—Section 1616(d) (42 U.S.C. 1382e(d)) is amended—

(A) by inserting ''(1)'' after ''(d)'';

(B) by inserting '', plus an administration fee assessed in accordance with paragraph (2) and any additional services fee charged in accordance with paragraph (3)'' before the period; and

(C) by adding after and below the end the following:

''(2)(A) The Secretary shall assess each State an administration fee in an amount equal to—

''(i) the number of supplementary payments made by the Secretary on behalf of the State under this section for any month in a fiscal year; multiplied by

''(ii) the applicable rate for the fiscal year.

''(B) As used in subparagraph (A), the term 'applicable rate' means—

''(i) for fiscal year 1995, $1.67;

''(ii) for fiscal year 1996, $3.33;

''(iii) for fiscal year 1997, $5.00; and

''(iv) for fiscal year 1998 and each succeeding fiscal year, $5.00, or such different rate as the Sec-

retary determines pursuant to criteria established in regulations is appropriate for the State, taking into account the complexity of the State's supplementary payment program.

''(C) All fees collected pursuant to this paragraph shall be transferred to the United States at the same time that amounts for such supplementary payments are required to be so transferred.

''(3)(A) The Secretary shall charge a State an additional services fee if, at the request of the State, the Secretary provides additional services beyond the level customarily provided, in the administration of State supplementary payments pursuant to this section.

''(B) The additional services fee shall be in an amount that the Secretary determines is necessary to cover all costs (including indirect costs) incurred by the Federal Government in furnishing the additional services referred to in subparagraph (A).

''(C) The additional services fee shall be payable in advance or by way of reimbursement.

''(4) All administration fees and additional services fees collected pursuant to this subsection shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.''.

(2) MANDATORY STATE SUPPLEMENTARY PAYMENTS.—Section 212(b)(3) of Public Law 93–66 (42 U.S.C. 1382 note) is amended—

(A) by inserting ''(A)'' after ''(3)'';

(B) by inserting '', plus an administration fee assessed in accordance with subparagraph (B) and any additional services fee charged in accordance with subparagraph (C)'' before the period; and

(C) by adding after and below the end the following:

''(B)(i) The Secretary shall assess each State an administration fee in an amount equal to—

''(I) the number of supplementary payments made by the Secretary on behalf of the State under this subsection for any month in a fiscal year; multiplied by

''(II) the applicable rate for the fiscal year.

''(ii) As used in clause (i), the term 'applicable rate' means—

''(I) for fiscal year 1995, $1.67;

''(II) for fiscal year 1996, $3.33;

''(III) for fiscal year 1997, $5.00; and

''(IV) for fiscal year 1998 and each succeeding fiscal year, $5.00, or such different rate as the Sec-

retary determines pursuant to regulations established in regulations is appropriate for the State, taking into account the complexity of the State's supplementary payment program.

''(iii) All fees collected pursuant to this subparagraph shall be transferred to the United States at the same time that amounts for such supplementary payments are required to be so transferred.

''(C)(i) The Secretary shall charge a State an additional services fee if, at the request of the State, the Secretary provides additional services beyond the level customarily provided, in the administration of State supplementary payments pursuant to this subsection.

''(ii) The additional services fee shall be in an amount that the Secretary determines is necessary to cover all costs (including indirect costs) incurred by the Federal Government in furnishing the additional services referred to in clause (i).

''(iii) The additional services fee shall be payable in advance or by way of reimbursement.

''(D) All administration fees and additional services fees collected pursuant to this paragraph shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to supplementary payments made pursuant to section 1616(a) of the Social Security Act or section 212(a) of Public Law 93–66 for any calendar month beginning after September 30, 1994, and to services furnished after such date, regardless of whether regulations to implement such amendments have been promulgated by such date, or whether any agreement entered into under such section 1616(a) or such section 212(a) has been modified.

Subtitle D—Miscellaneous Provisions

PART I—TRADE PROVISIONS

SEC. 7701. EXTENSION OF AUTHORITY TO LEVY CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out ''1995'' and inserting ''1998''.

SEC. 7702. EXTENSION OF, AND AUTHORIZATION OF APPROPRIATIONS FOR, TRADE ADJUSTMENT ASSISTANCE PROGRAM.

(a) EXTENSION.—Section 285 of the Trade Act of 1974 (19 U.S.C. 2271, preceding note) is amended—

(1) by striking ''No'' and all that follows through ''and no duty'' in subsection (b) and inserting ''No duty''; and

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

''(c) No assistance, vouchers, allowances, or other payments may be provided under chapter 2, and no technical assistance may be provided under chapter 3, after September 30, 1998.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) CHAPTER 2 ADJUSTMENT ASSISTANCE.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking ''1988, 1989, 1990, 1991, 1992, and 1993'' and inserting ''1993, 1994, 1995, 1996, 1997, and 1998''.

(2) CHAPTER 3 ADJUSTMENT ASSISTANCE.—Section 256(b) of such Act (19 U.S.C. 2346(b)) is amended by striking ''1988, 1989, 1990, 1991, 1992, and 1993'' and inserting ''1993, 1994, 1995, 1996, 1997, and 1998''.

PART II—IMPROVED ACCESS TO CHILDHOOD IMMUNIZATIONS

SEC. 7801. FINDINGS AND PURPOSE.

(a) FINDINGS.—

(1) CURRENT CIRCUMSTANCES.—Congress finds the following:

(A) The measles outbreak which occurred between 1989 and 1991 resulted in over 55,000 cases, more than 130 deaths, and over 11,000 hospitalizations. The national costs of this epidemic are estimated to be over $150,000,000.

(B) Studies have shown that a high percentage of unvaccinated children who got the measles during the outbreak described in subparagraph (A) were participating in the medicaid program, resulting in costs to Federal and State governments. For instance, 45 percent of the unvaccinated children in Los Angeles who got the measles, and 75 percent of the unvaccinated children in New York City who got the measles, were participating in the medicaid program.

(C) Immunizations are among the most cost-effective means of preventing disease.

(D) Although Federal support for childhood immunizations has been in existence since 1962, the full potential of immunizations remains to be achieved. Enactment and enforcement of school immunization requirements have

resulted in excellent immunization levels (96 percent or greater) in school children. However, approximately 80 percent of vaccine doses should be received before the second birthday in order to protect children during their most vulnerable periods. Many children do not receive their basic immunizations by that time, and in some inner cities as few as 10 percent of 2-year-olds have received a complete series. This low level of immunizations has been reflected in recent years by outbreaks of measles among inadequately immunized preschool children.

(E) The childhood immunization services delivery infrastructure is both public and private. There is considerable evidence to suggest that the private infrastructure has been eroded over the past decade as a result of the significantly increased cost of privately purchased vaccines.

(F) High vaccine costs, coupled with the growing number of uninsured and underinsured families, has resulted in private physicians increasingly referring their private-pay patients to overburdened public clinics for vaccinations.

(G) Eleven States now have programs that provide vaccines without charge to both public and private health care providers. Other States that have sought to establish such programs have been denied additional discounted vaccines by manufacturers.

(H) There is no evidence to suggest that a negotiated price that takes into account the reasonable cost of production, marketing, research and development, and distribution will not fairly compensate vaccine manufacturers.

(I) The Secretary of Health and Human Services has experience negotiating vaccine purchase through the Federal contract system.

(J) The National Vaccine Injury Compensation Program is an essential element in a comprehensive immunization program and should be applied to additional vaccines recommended for universal use in children.

(K) There have been at least 3 causes for the high cost of vaccines: price increases, the introduction of new vaccines, and the establishment of the excise tax on vaccines which funds the National Vaccine Compensation Program. The expansion of a central bulk purchasing pro-

gram which replaces the current purchase of vaccines under the medicaid program will help reduce the cost of vaccines.

(2) NEEDED ACTIONS.—With respect to actions necessary to reduce costs of not immunizing at the earliest possible age, Congress finds the following:

(A) The Federal Government should purchase and provide free of charge to health care providers vaccines recommended for universal use in certain children. This action will not only remove financial barriers to immunization that impede children from being vaccinated at the appropriate time, but will also facilitate the development of an immunization surveillance program.

(B) The National Vaccine Injury Compensation Program should be extended and improved. Vaccine information materials should be simplified to ensure that parents can understand the benefits and risks of vaccines.

(b) PURPOSE.—It is the purpose of this Act to ensure that high-risk children in the United States are fully immunized against vaccine preventable infectious diseases at the earliest appropriate age and avert costs to the Federal Government due to lack of immunization.

SEC. 7802. MEDICAID IMMUNIZATION PROVISIONS.

(a) RECOMMENDED PEDIATRIC VACCINES.—Title XIX (42 U.S.C. 1396 et seq.), as amended by section 7433, is amended by adding at the end the following new section:

''RECOMMENDED PEDIATRIC VACCINES

''SEC. 1932. Not later than October 1, 1994 (and periodically thereafter as the Secretary determines appropriate in view of advances in scientific understanding in the areas of immunization and disease control), the Secretary shall promulgate a list of vaccines that provide immunization against naturally occurring infectious diseases and are recommended for universal use in children. The Secretary shall concurrently promulgate recommendations regarding the appropriate dosage for each such vaccine, and a schedule of the age or ages of children at which each vaccine should be administered.''.

(b) ASSURING ADEQUATE PAYMENT RATES FOR ADMINISTRATION OF VACCINES TO CHILDREN.—

(1) PAYMENT RATES.—Section 1926(a)(4)(B) (42 U.S.C. 1396r–7(a)(4)(B)) is amended by inserting ''(including the administration of vaccines)'' after ''means services''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to the plan amendment required to be submitted under section 1926(a)(2) of

the Social Security Act by not later than October 1, 1994.

(c) DENIAL OF FEDERAL FINANCIAL PARTICIPATION FOR INAPPROPRIATE ADMINISTRATION OF SINGLE-ANTIGEN VACCINE.—

(1) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by section 7451, is amended—

(A) in paragraph (13), by striking ''or'' at the end,

(B) in paragraph (14), by striking the period at the end and inserting ''; or'', and

(C) by inserting after paragraph (14) the following new paragraph:

''(15) with respect to any amount expended for a single-antigen vaccine and its administration in any case in which the administration of a combined-antigen vaccine was medically appropriate (as determined by the Secretary) and cost-beneficial for the disease.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to amounts expended for vaccines administered on or after October 1, 1994.

(d) OUTREACH AND EDUCATION.—

(1) IMMUNIZATION OUTREACH THROUGH EPSDT PROGRAM.—

(A) IN GENERAL.—Section 1902(a)(43)(A) (42 U.S.C. 1396a(a)(43)(A)) is amended by inserting before the comma at the end the following: ''and the need for age-appropriate immunizations against vaccine-preventable diseases''.

(B) EFFECTIVE DATE.—(i) Except as provided in clause (ii), the amendment made by this paragraph shall apply to calendar quarters beginning on or after October 1, 1994.

(ii) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this paragraph, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that

begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(2) COORDINATION WITH MATERNAL AND CHILD HEALTH BLOCK GRANT PROGRAMS AND WIC PROGRAMS ON PROVIDING INFORMATION AND EDUCATION ON IMMUNIZATIONS.—

(A) IN GENERAL.—Section 1902(a)(11) (42 U.S.C. 1396a(a)(11)) is amended—

(i) in clause (B)—

(I) by striking ''effective July 1, 1969,'',

(II) by striking ''and'' before ''(ii)'', and

(III) by striking ''to him under section 1903'' and inserting ''to the individual under section 1903, and (iii) providing for coordination of information and education on pediatric vaccinations and delivery of immunization services''; and

(ii) in clause (C), by inserting ‘‘, including the provision of information and education on pediatric vaccinations and the delivery of immunization services,’’ after ‘‘operations under this title’’.

(B) EFFECTIVE DATE.—(i) Except as provided in clause (ii), the amendment made by this paragraph shall apply to calendar quarters beginning on or after October 1, 1994.

(ii) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this paragraph, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in

the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(e) COORDINATION WITH MATERNAL AND CHILD HEALTH BLOCK GRANT PROGRAMS ON PAYMENT AND REPORTS ON IMMUNIZATION SERVICES.—

(1) PAYMENT.—Section 505(a) (42 U.S.C. 705(a)) is amended—

(A) in paragraph (4), by striking ''; and'' and inserting a semicolon;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(6) provides that the State agency (or agencies) administering the State's program under this title will coordinate with the State agency administering the State's plan under title XIX—

''(A) to authorize payments under title XIX to health care providers who furnish services under this title to individuals who are eligible for medical assistance under title XIX; and

''(B) to establish a system under which health care providers who furnish services

under this title to individuals who are eligible for medical assistance under title XIX shall seek payment for such services under title XIX before seeking payment for such services under this title.''.

(2) REPORTS.—Section 506(a) of such Act (42 U.S.C. 706(a)) is amended—

(A) in paragraph (1), by striking ''Copies of the report'' and inserting ''Any information regarding immunization services provided under this title which is included in a report submitted under this section shall conform to the Centers for Disease Control and Prevention immunization reporting standards for federally purchased vaccines. Copies of the report''; and

(B) in paragraph (2), by inserting immediately after subparagraph (E) the following new subparagraph:

''(F) Information on activities conducted by the State to ensure compliance with the Standards for Immunization Practices, developed and published by the Centers for Disease Control and Prevention under the auspices of the National Vaccine Advisory Committee.''.

(f) MEDICAID MANAGED CARE PLANS REQUIRED TO COMPLY WITH IMMUNIZATION AND OTHER EPSDT REQUIREMENTS.—

(1) IN GENERAL.—Section 1903(m) (42 U.S.C. 1396b(m)) is amended—

(A) in paragraph (2)(A)—

(i) by striking ''and'' at the end of clause (x),

(ii) by striking the period at the end of clause (xi) and inserting ''; and'', and

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

''(xii) the entity complies with the requirements of paragraph (7) (relating to EPSDT compliance).''; and

(B) by adding at the end the following new paragraph:

''(7) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall—

''(A) specify which early and periodic screening, diagnostic, and treatment services are to be provided under the contract to individuals under age 21 who are enrolled with the entity;

''(B) in the case of such services which are not to be so provided, specify the steps the entity or the

State will take (through referrals or other arrangements) to assure that such individuals will receive such services; and

''(C) require the entity to submit such periodic reports as may be necessary to enable the State to prepare and submit timely reports under sections 1902(a)(43)(D) and 506(a)(2).''.

(2) APPLICATION OF INTERMEDIATE SANCTIONS FOR FAILURE TO PROVIDE IMMUNIZATIONS AND OTHER EPSDT SERVICES.—Section 1903(m)(5)(A) (42 U.S.C. 1396b(m)(5)(A)) is amended—

(A) by striking '', or'' at the end of clause (iv) and inserting a semicolon,

(B) by striking the comma at the end of clause (v) and inserting ''; or'', and

(C) by inserting after clause (v) the following new clause:

''(vi) fails substantially to provide early and periodic screening, diagnostic, and treatment services to the extent specified in the contract under paragraph (7)(A);''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to contract years beginning on or after October 1, 1993, without regard

to whether or not final regulations to carry out such amendments have been promulgated by such date.

(g) AVAILABILITY OF MEDICAID PAYMENTS FOR PEDIATRIC VACCINE REPLACEMENT PROGRAMS.—

(1) IN GENERAL.—Section 1902(a)(32) (42 U.S.C. 1396a(a)(32)) is amended—

(A) by striking ''and'' at the end of subparagraph (B),

(B) by striking the period at the end of subparagraph (C) and inserting ''; and'', and

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

''(D) in the case of payment for a pediatric vaccine administered to individuals entitled to medical assistance under the State plan, the State plan may make payment directly to the manufacturer of the vaccine under a voluntary replacement program agreed to by the State pursuant to which the manufacturer (i) supplies doses of the vaccine to providers administering the vaccine, (ii) periodically replaces the supply of the vaccine, and (iii) charges the State the manufacturer's bid price to the Centers for Disease Control and Prevention for the vaccine so

administered plus a reasonable premium to cover shipping and handling of returns;''.

(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(h) PARENTAL RESPONSIBILITY DEMONSTRATION PROJECTS.—

(1) ESTABLISHMENT.—The Secretary of Health and Human Services (hereafter referred to in this subsection as the ''Secretary'') shall provide for demonstration projects under section 1115 of the Social Security Act designed to improve the rate and timeliness of immunization against childhood diseases in the case of any child (hereafter referred to in this subsection as an ''eligible child'' or ''eligible children'') up to age 2 who is a member of a family eligible for aid to families with dependent children under part A of title IV of the Social Security Act (hereafter referred to in this subsection as ''AFDC'') and who is eligible to receive services under title XIX of the Social Security Act.

(2) PROJECTS DESCRIBED.—

(A) IN GENERAL.—Each State conducting a demonstration project under this subsection shall establish and operate a parent responsibil-

ity program which shall provide that if a family receiving AFDC for any month includes an eligible child who has not received appropriate immunizations (as defined in subparagraph (F)) during such month, the State shall reduce the benefits to be received by such family for any succeeding month by all or a portion of the benefits allocable to the parent or guardian of such child (hereafter referred to in this subsection as the ''parental share'').

(B) REASONABLE REDUCTIONS REQUIRED.—Any program established and operated under subparagraph (A) shall assure that any reductions in the AFDC benefits to be received by a family referred to in such subparagraph shall be reasonably related to the failure to appropriately immunize an eligible child.

(C) LATER COMPLIANCE.—Any reductions in AFDC benefits under subparagraph (A) (excluding an amount equal to the parental share for one month, which may be retained by the State) shall be paid to the family referred to in such subparagraph upon a demonstration to the State that the eligible child has received appropriate immunizations.

(D) LIMITATION.—The total amount of the reductions in the AFDC benefits to be received by a family referred to in subparagraph (A) shall not exceed an amount equal to the parental share for 7 months.

(E) SPECIAL RULE.—Any family referred to in subparagraph (A) may demonstrate to the State that due to particular circumstances a parental responsibility program established and operated by a State should not be applied to such family.

(F) APPROPRIATE IMMUNIZATIONS.—For purposes of this subsection, the term ''appropriate immunizations'' refers to immunizations administered in accordance with the list of recommended pediatric vaccines promulgated by the Secretary under section 1932 of the Social Security Act and the related recommendations promulgated by the Secretary under such section regarding the appropriate dosage for such vaccines and the age or ages at which such vaccines should be administered unless the administration of such immunizations would not be in compliance with any law of the State.

(2) APPLICATIONS.—

(A) IN GENERAL.—Each State desiring to conduct a demonstration project under this subsection shall prepare and submit to the Secretary an application, at such time, in such manner, and containing any information, in addition to the information required under subparagraph (B), as the Secretary may require.

(B) REQUIRED INFORMATION.—Each application submitted by a State under subparagraph (A) shall contain the following:

(i) A certification by the State that the cost of the demonstration project as conducted by the State will be budget neutral to the Federal Government in accordance with paragraph (6).

(ii) A description of the parental responsibility program to be established and operated by the State under the demonstration project.

(iii) A certification by the State that if a family applying for or receiving AFDC benefits includes an eligible child, such family will receive, prior to any action with respect to determination or redetermination of eligibility, a written notice contain-

ing a description of the State's parent responsibility program which shall include—

(I) an explanation of the immunizations such child is required to receive under such program,

(II) a schedule listing the age when such immunizations are required to be administered,

(III) an explanation that if such child is not properly immunized the family's monthly AFDC benefit may be reduced by the State, and

(IV) an explanation of the process by which, and a description of the medical records or other basis by which, a family may recover any AFDC benefits reduced by the State.

(iv) A certification by the State that eligible children will be provided immunization services by appropriate medical staff without charge at locations that are accessible to such children and their families with respect to location and hours of operation, including the State or local offices where eligibility determinations are made

under part A of title IV of the Social Security Act or title XIX of such Act serving each area in which the demonstration project is conducted or that the State will provide transportation services to another location where the immunization services will be provided by appropriate medical staff without charge.

(v) A certification by the State that caseworkers will track the immunization services provided to an eligible child and will notify the parent or guardian of such child with respect to the need for additional immunization services and a schedule for the appropriate provision of such services.

(vi) A certification by the State that the demonstration project will be subject to periodic evaluations intended to measure the impact of the project on the State's immunization rates.

(C) APPROVAL OF APPLICATIONS.—The Secretary shall approve no more than 5 applications submitted by States under subparagraph (A).

(4) DURATION.—Any demonstration project under this subsection shall be conducted for a period of 3 years.

(5) REPORTS.—

(A) INTERIM REPORTS.—A State conducting a demonstration project under this subsection shall prepare and submit to the Secretary such interim reports as may be required by the Secretary with respect to the activities conducted by such State under this subsection.

(B) FINAL REPORT.—A State conducting a demonstration project under this subsection shall prepare and submit to the Secretary a final report upon the termination of such project which evaluates the effect of the project in achieving the objectives of this subsection and includes such specific data as the Secretary may require such as data relating to the number of families whose AFDC was reduced under the parent responsibility program and whether the State's immunization rates improved over the course of the demonstration project.

(6) BUDGET NEUTRALITY.—The Secretary shall provide that in carrying out this subsection, the payments under section 1903 of the Social Security Act

to any State conducting a demonstration project under this subsection for a quarter shall be no greater or lesser than what such payments would have been if this subsection had not been enacted.

(i) TRANSITION RULE.—

(1) MEDICAID USE OF CDC CONTRACT PRICE.—The Secretary of Health and Human Services shall not, on or after the date of the enactment of this Act, enter into a contract for the purchase by the Centers for Disease Control and Prevention of pediatric vaccines for distribution (as provided for in the Public Health Service Act) unless such contract provides that the charge for such vaccines, for which medical assistance is provided under a State plan under title XIX of the Social Security Act, will not exceed the price negotiated under such contract. The previous sentence shall not apply, with respect to a vaccine for which medical assistance is provided by a State, on and after such date as the State becomes entitled to have the Secretary provide for the purchase and delivery on behalf of the State of that vaccine under section 2101 of the Social Security Act.

(2) USE BY STATES OF CDC CONTRACT PRICE.—Nothing in paragraph (1) shall be construed as limiting the Federal financial participation

available to States, under title XIX of the Social Security Act, for the cost of a pediatric vaccine to the contract price described in such paragraph for the vaccine.

SEC. 7803. CENTRAL BULK PURCHASING PROGRAM FOR PEDIATRIC VACCINES.

(a) IN GENERAL.—The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end the following new title:

"TITLE XXI—CENTRAL BULK PURCHASING PROGRAM FOR PEDIATRIC VACCINES

''DELIVERY TO STATES OF SUFFICIENT QUANTITIES OF PEDIATRIC VACCINES

''SEC. 2101. (a) IN GENERAL.—In the case of any State that submits to the Secretary an application in accordance with section 2107, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall provide for the purchase and delivery on behalf of the State of such quantities of pediatric vaccines as may be necessary for the immunization of each eligible child in the State. The preceding sentence is subject to sections 2102(d) and 2109(a).

"(b) ELIGIBLE CHILDREN.—For purposes of this title, the term 'eligible child' means an individual 18 years of age or younger who—

"(1) with respect to the State involved, is entitled to medical assistance under the plan approved for the State under title XIX (including a State operating under a statewide waiver under section 1115);

"(2)(A)(i) is uninsured with respect to health insurance policies or plans (including group health plans or prepaid health plans and including employee welfare benefit plans under the Employee Retirement Income Security Act of 1974), and

"(ii) is a member of a family with an income of less than 75 percent of the State's median income; or

"(B)(i) is covered under such a policy or plan, but under the policy or plan benefits are not available with respect to immunizations, and

"(ii) is a member of a family with an income of less than 75 percent of the State's median income; or

"(3) is an Indian.

"STATES, ELIGIBLE CHILDREN, AND PROVIDERS

"SEC. 2102. (a) STATES.—Subject to subsection (d), in the case of any State that submits to the Secretary an

application in accordance with section 2107, the State is entitled to have the Secretary provide for the purchase and delivery on behalf of the State of pediatric vaccines under section 2101. The preceding sentence constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the purchase and delivery to the State of the vaccines.

''(b) CHILDREN AND HEALTH CARE PROVIDERS.—Subject to subsection (d), the Secretary may provide for the purchase and delivery of pediatric vaccines under section 2101 on behalf of a State only if the State agrees as follows:

''(1) Each eligible child in the State, in receiving an immunization with a pediatric vaccine from a program-registered provider (as defined in section 2103(a)), is entitled to receive the immunization without charge for the cost of such vaccine.

''(2) Each program-registered provider in the State who administers a pediatric vaccine to an eligible child in the State is entitled to receive such vaccine from the State without charge.

''(3) The State will carry out a program to administer the obligations established pursuant to paragraphs (1) and (2).

"(c) ENFORCEMENT OF PROVIDER RIGHTS BY ELIGIBLE CHILDREN.—With respect to the obligation of a State established in subsection (b)(2), an eligible child (or representative of the child) may enforce the rights of the provider under such paragraph if—

"(1) the provider administered a pediatric vaccine to the child notwithstanding the failure of the State to carry out such obligation with respect to the vaccine; or

"(2) an immunization with the vaccine was sought for the child by a parent of the child, but the provider, on the basis of such failure of the State, did not administer the vaccine to the child.

"(d) CERTAIN CONDITIONS.—

"(1) IN GENERAL.—This title does not apply with respect to any vaccine administered before October 1, 1994.

"(2) PUBLIC HEALTH SERVICE ACT PROGRAM.—The Federal Government and the States shall have no obligation pursuant to any provision of this title with respect to any vaccine purchased under section 317 of the Public Health Service Act and administered to an eligible child.

"(3) RELATIONSHIP TO PURCHASE CONTRACTS WITH MANUFACTURERS.—With respect to a pedi-

atric vaccine, the obligation of the Federal Government pursuant to subsection (a), and the obligations of the State pursuant to subsection (b), are effective only to the extent that there is in effect a contract under section 2108 for the purchase and delivery of the vaccine.

''(4) SUBMISSION OF APPLICATION.—

''(A) IN GENERAL.—Subject to subparagraph (C), the programs established pursuant to subsections (a) and (b) are established with respect to a State upon the State submitting to the Secretary an application in accordance with section 2107.

''(B) CONSIDERATION OF APPLICATION.—An application submitted to the Secretary under section 2107 is deemed to have been submitted in accordance with such section unless the Secretary, not later than 30 days after the date on which the application is submitted, notifies the State that the application is not in accordance with such section.

''(C) SPECIAL RULE.—If a State that manufactures a pediatric vaccine and does not receive the vaccine under section 2101 fails to submit an application in accordance with sec-

tion 2107, the Secretary may, upon the submission by the State of an application that is in accordance with such section, provide payment to such State under section 2109(b) as of the date on which the State first submitted an application.

''VOLUNTARY PARTICIPATION OF HEALTH CARE PROVIDERS

''SEC. 2103. (a) IN GENERAL.—

''(1) REQUEST FOR PARTICIPATION; REQUIRED APPROVAL.—The Secretary may provide for the purchase and delivery of pediatric vaccines under section 2101 on behalf of a State only if the State agrees that federally supplied pediatric vaccines will not be distributed to a health care provider unless—

''(A) the provider submits to the State a written request to participate in the program established by the State pursuant to section 2102(b)(3);

''(B) the request is in such form and is made in such manner as the Secretary may require; and

''(C) the provider makes the agreements described in this section.

''(2) PROGRAM-REGISTERED PROVIDERS.—For purposes of this title, the term 'program-registered

provider' means a health care provider that meets the conditions specified in subparagraphs (A) through (C) of paragraph (1).

''(b) ELIGIBILITY OF CHILDREN.—

''(1) IN GENERAL.—An agreement for a health care provider under subsection (a) is that the provider—

''(A) before administering a pediatric vaccine to a child, will ask a parent or guardian of the child such questions as are necessary to determine whether the child is an eligible child;

''(B) will, for a period of time specified by the Secretary, maintain records of responses made to the questions; and

''(C) will, upon request, make such records available to the appropriate State agency involved and to the Secretary, subject to paragraphs (2) and (3).

''(2) INFORMATIONAL FORM.—The Secretary shall develop, in consultation with States and health care providers, a simple form for providers to furnish to a child's parent or guardian which allows such parent or guardian to declare that the child is an eligible child and which contains a statement assuring the confidentiality of any information re-

ceived. Each State may elect to utilize the form developed by the Secretary under this paragraph or an alternate form developed by the State and approved by the Secretary.

''(3) RESTRICTION ON USE OF INFORMATION.—Records provided to a State or to the Secretary under paragraph (1)(C) may be used only for purposes of audit of the program carried out under section 2102(b)(3) by the State. The State and the Secretary shall assure confidentiality of such records.

''(c) CHARGES FOR VACCINES.—

''(1) NO CHARGE FOR VACCINE.—An agreement for a health care provider under subsection (a) is that, in administering a federally supplied pediatric vaccine to an eligible child, the provider will not impose a charge for the cost of the vaccine.

''(2) ADMINISTRATION OF VACCINES.—With respect to compliance with an agreement under paragraph (1), a program-registered provider may impose a fee for the administration of a federally supplied pediatric vaccine that reflects actual regional costs as determined by the Secretary, except that a provider may not deny a child a vaccination due to

the inability of the child's parent or guardian to pay an administration fee.

''(d) RULES OF CONSTRUCTION.—

''(1) EXTENT OF PARTICIPATION.—This section may not be construed as requiring that a program-registered provider administer a federally supplied pediatric vaccine to each eligible child for whom an immunization with the vaccine is sought from the provider.

''(2) VERIFICATION OF INFORMATION.—

''(A) PROGRAM-REGISTERED PROVIDERS.—With respect to compliance with agreements under subsections (b) and (c), such agreements may not be construed as permitting or requiring a program-registered provider to verify independently the information provided to the provider by a parent pursuant to such subsections.

''(B) PARENTS OR GUARDIANS.—Nothing in this section shall be construed as requiring a child's parent or guardian to provide proof of the child's family income or insurance status.

''(3) STATE UNIVERSAL VACCINE PROGRAM.—In the case of a State which purchases sufficient quantities of vaccines to provide all recommended

pediatric vaccines to all children in the State, nothing in this title shall be construed as requiring program-registered providers to collect information, or as requiring a child's parent or guardian to provide any information, with respect to whether a child is an eligible child under this title.

''INTRASTATE DISTRIBUTION OF PEDIATRIC VACCINES

''SEC. 2104. (a) IN GENERAL.—Not later than 180 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993, the Secretary shall, through publication in the Federal Register, establish criteria for the delivery on behalf of the States of federally supplied pediatric vaccines to program-registered providers in the State.

''(b) INVOLVEMENT OF CERTAIN PROVIDERS.—

''(1) IN GENERAL.—In establishing criteria under subsection (a), the Secretary shall establish criteria with respect to encouraging the entities described in paragraph (2) to become program-registered providers.

''(2) RELEVANT PROVIDERS.—The entities referred to in paragraph (1) are—

''(A) private health care providers; and

''(B)(i) health care providers that receive funds under title V of the Indian Health Care Improvement Act;

''(ii) the Indian Health Service; and

''(iii) health programs or facilities operated by Indian tribes or tribal organizations.

''(c) CULTURAL CONTEXT OF SERVICES.—In establishing criteria under subsection (a), the Secretary shall require that, in providing a federally supplied pediatric vaccine to any population of eligible children a substantial portion of whose parents have a limited ability to speak the English language, a State have in effect a reasonable plan to administer the vaccines through program-registered providers who are able to communicate with the population involved in the language and cultural context that is most appropriate.

''(d) COMPLIANCE BY STATES.—The Secretary may provide for the purchase and delivery of pediatric vaccines under section 2101 on behalf of a State only if the State agrees to maintain compliance with the criteria established under subsection (a).

''GENERAL PROVISIONS

''SEC. 2105. (a) FEDERAL STANDARDS ON ACCOUNTABILITY.—

''(1) ESTABLISHMENT OF STANDARDS.—Not later than 180 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993, the Secretary shall, through publication in the Federal Register, establish standards with respect to de-

termining the extent to which States and program-registered providers are in compliance with the agreements made under this title.

''(2) COMPLIANCE BY STATES.— The Secretary may provide for the purchase and delivery of pediatric vaccines under section 2101 on behalf of a State only if the State agrees to maintain compliance with the standards established under paragraph (1).

''(b) STATE MAINTENANCE OF IMMUNIZATION LAWS.—The Secretary may provide for the purchase and delivery of vaccines under section 2101 on behalf of a State only if the State certifies to the Secretary that, if the State had in effect as of May 1, 1993, a law that requires some or all health insurance policies or plans to provide some coverage with respect to a pediatric vaccine, the State has not modified or repealed such law in a manner that reduces the amount of coverage so required.

''STATE OPTION REGARDING IMMUNIZATION OF ADDITIONAL CATEGORIES OF CHILDREN

''SEC. 2106. (a) STATE PURCHASES.—Subject to subsections (b) and (c), for the purpose of administering a pediatric vaccine to children in addition to eligible children, any participating State under section 2101 may, pursuant to section 2108(a)(2), purchase the vaccine from

a manufacturer of the vaccine at the price in effect under section 2108.

''(b) REQUIREMENTS.—A State may purchase pediatric vaccines pursuant to subsection (a) only if the following conditions are met:

''(1) The State agrees that the vaccines will be used to provide immunizations for children who are not eligible children.

''(2) The State designates the particular categories of children who are to receive the immunizations, and submits to the Secretary a description of the categories so designated.

''(3) The State provides to the Secretary, in advance of the negotiations under section 2108, information relating to the specific quantities of pediatric vaccines the State wishes to purchase and such other information as the Secretary determines to be necessary to provide for quantities of pediatric vaccines for the State to purchase pursuant to section 2108(a)(4).

''(4) The State agrees, subject to subsection (c), that the program established by the State pursuant to section 2102(b)(3) applies to children designated under paragraph (2) to the same extent and in the same manner as the program applies to eligible chil-

dren (except for the State being the purchaser of the pediatric vaccines involved).

''(c) CERTAIN LIMITATIONS.—A State may purchase pediatric vaccines pursuant to subsection (a) only if the State agrees as follows:

''(1) The authorization established in such subsection with respect to a pediatric vaccine is subject to the quantity of the vaccine that, on behalf of the State, the Secretary provides for under section 2108(a)(2).

''(2) In any case in which multiple contracts are in effect under section 2108 with respect to such a vaccine and the State elects to purchase the vaccine pursuant to subsection (a), the Secretary will determine which of such contracts will be applicable to the purchase.

''(d) MONITORING BY THE SECRETARY.—The Secretary shall study and report to the Congress annually on—

''(1) the extent to which States elect to purchase pediatric vaccines pursuant to subsection (a),

''(2) the impact of such purchases on the price of the pediatric vaccines purchased by the Federal Government under this title,

''(3) the effectiveness and efficiency of permitting States to purchase pediatric vaccines pursuant to subsection (a), and

''(4) State procedures and mechanisms for funding the purchase of pediatric vaccines pursuant to subsection (a).

''STATE APPLICATION FOR VACCINES

''SEC. 2107. An application by a State for pediatric vaccines under section 2101(a) is in accordance with this section if the application—

''(1) is submitted not later than the date specified by the Secretary;

''(2) contains each agreement required in this title (including the agreements required in section 2106, if the State is electing to purchase pediatric vaccines pursuant to such section);

''(3) contains any information required in this title to be submitted to the Secretary (including the information required in section 2106, if the State is electing to purchase pediatric vaccines pursuant to such section);

''(4) contains the certification required in subsection (b) of section 2105 and, as applicable, the certification required in subsection (c) of such section; and

"(5) is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

"CONTRACTS WITH MANUFACTURERS OF PEDIATRIC VACCINES

"SEC. 2108. (a) IN GENERAL.—Subject to the provisions of this section, the Secretary shall periodically enter into negotiations with manufacturers of pediatric vaccines included on the list promulgated by the Secretary pursuant to section 1932 (hereafter referred to in this section as 'recommended pediatric vaccines'), or otherwise, for the purpose of maintaining contracts under which—

"(1) the Secretary provides for the purchase of quantities of pediatric vaccines necessary for carrying out section 2101,

"(2) the Secretary provides for the delivery of the vaccines to participating States in amounts necessary for distribution under the Public Health Service Act to meet anticipated needs for the routine and catch-up immunization of children in the United States in accordance with the recommendations promulgated under section 1932,

"(3) the Secretary takes into account minimum waste due to breakage or other unavoidable losses, and

"(4) each participating State, at the option of the State under section 2106, is permitted to obtain additional quantities of pediatric vaccines (subject to limits in such contracts regarding quantities) through purchasing the vaccines from the manufacturers at the price negotiated by the Secretary for the quantities specified in paragraph (1).

The Secretary shall enter into the initial negotiations under the preceding sentence not later than 180 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993.

"(b) NEGOTIATION OF PURCHASE PRICE.—

"(1) IN GENERAL.—In negotiating the prices at which pediatric vaccines will be purchased from a manufacturer under subsection (a), the Secretary shall negotiate a price that provides a reasonable profit for the manufacturer and that includes the excise tax under section 4131 of the Internal Revenue Code of 1986 and the costs described in paragraph (2).

"(2) CERTAIN FACTORS.—

"(A) In determining a reasonable profit for a manufacturer under paragraph (1), the Secretary shall consider the following factors:

''(i) The costs of the manufacturer in researching, developing, and producing the pediatric vaccine involved.

''(ii) The costs of the manufacturer in researching and developing new or improved vaccines (pediatric or otherwise).

''(iii) The costs of shipping and handling pediatric vaccines by a manufacturer or a State in compliance with the agreement under subsection (c).

''(iv) The cost of maintaining adequate capacity for disease outbreak control.

''(v) Such other factors as the Secretary determines to be appropriate as set forth in regulations issued by the Secretary.

''(B) With respect to factors considered under subparagraph (A), the Secretary may enter into a contract under subsection (a) only if the manufacturer involved provides to the Secretary such information regarding the factors as the Secretary determines to be appropriate as set forth in regulations issued by the Secretary.

''(3) CONFIDENTIALITY.—With respect to information provided to the Secretary by a manufacturer under paragraph (2), the following applies:

''(A) The Secretary shall maintain the confidentiality of the information, with provision for reasonable disclosures.

''(B) For purposes of section 552(b)(4) of title 5, United States Code, the information shall be considered to be trade secrets and commercial or financial information obtained from a person and privileged or confidential.

''(C) Section 1905 of title 18, United States Code, applies to information maintained confidentially under subparagraph (A).

''(c) CHARGES FOR SHIPPING AND HANDLING.—The Secretary may enter into a contract under subsection (a) only—

''(1) if the manufacturer involved agrees that the manufacturer will provide for delivering the vaccines on behalf of the States in accordance with the programs established by the States pursuant section 2102(b)(3) and agrees not to impose any charges for the costs of such delivery (except to the extent such costs are provided for in the price negotiated under subsection (b)), or

"(2) for a State that distributes vaccines, if the State will not impose any charges for the costs of such delivery (except to the extent such costs are provided for in the price negotiated under subsection (b)).

"(d) CONSULTATIONS.—

"(1) PREPROCUREMENT CONSULTATIONS.—The Secretary may consult with representatives of State governments, experts in vaccine delivery, health care providers, and others with expertise in purchasing and pricing pharmaceutical products prior to soliciting bids or offers for recommended pediatric vaccines under this section. Health care providers shall also furnish periodic estimates to the States of the providers' future dosage needs for recommended pediatric vaccines distributed under the Public Health Service Act. States receiving Federal grants for immunization registries shall report such data to the Secretary. All reports shall be made with such frequency and in such detail as the Secretary may prescribe.

"(2) CONSULTATIONS WITH FEDERAL AGENCIES.—The Secretary shall, in order to determine the appropriate vaccines and amounts of vaccines to be purchased under subsection (a), consult with

Federal agencies involved in research regarding, or the regulation, procurement, or distribution of, recommended pediatric vaccines. Such consultation may be effected through the establishment of a Vaccine Requirements Panel to be composed entirely of representatives of the relevant Federal agencies, or through such other means as the Secretary determines appropriate.

''(e) NEGOTIATING AUTHORITY OF SECRETARY.—In carrying out subsection (a), the Secretary, to the extent determined by the Secretary to be appropriate, may enter into contracts described in such subsection, may decline to enter into such contracts, and with the consent of the manufacturers involved, may modify such agreements and may extend such agreements.

''(f) CERTAIN CONTRACT PROVISIONS.—

''(1) DURATION.—A contract entered into by the Secretary under subsection (a) is effective for such period as the Secretary and the manufacturer involved may agree in the contract.

''(2) ADVANCE FUNDING.—The Secretary may, pursuant to section 2102(a), enter into contracts under subsection (a) under which the Federal Government is obligated to make outlays, the budget au-

thority for which is not provided for in advance in appropriations Acts.

''(g) REPORTS TO SECRETARY.—The Secretary may enter into a contract under subsection (a) only if the manufacturer involved agrees to submit to the Secretary such reports as the Secretary determines to be appropriate with respect to compliance with the contract. For purposes of paragraph (3) of subsection (b), such reports shall be considered to be information provided by the manufacturer to the Secretary under paragraph (2) of such subsection.

''(h) MULTIPLE SUPPLIERS.—

''(1) IN GENERAL.—In the case of the pediatric vaccine involved, the Secretary shall, as appropriate, enter into a contract under subsection (a) with each manufacturer of the vaccine that meets the terms and conditions of the Secretary for an award of such a contract (including terms and conditions regarding safety, quality, and price).

''(2) RULE OF CONSTRUCTION.—With respect to multiple contracts entered into pursuant to paragraph (1), such paragraph may not be construed as prohibiting the Secretary from having in effect different prices under each of such contracts.

''CERTAIN ADMINISTRATIVE VARIATIONS

''SEC. 2109. (a) TRIBES AND TRIBAL ORGANIZATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall provide for the purchase and delivery on behalf of each Indian tribe and each tribal organization of such quantities of pediatric vaccines as may be necessary for the immunization of each Indian child in the State in which the tribe or organization (as the case may be) is located.

"(2) ADMINISTERING PROGRAM.—The Secretary may provide for the purchase and delivery of pediatric vaccines under paragraph (1) on behalf of an Indian tribe or tribal organization only if the tribe or organization (as the case may be) agrees that this title applies to the tribe or organization (in relation to Indian children) to the same extent and in the manner as such title applies to States (in relation to eligible children).

"(b) STATE AS MANUFACTURER.—

"(1) PAYMENTS IN LIEU OF VACCINES.—In the case of a participating State under section 2101 that manufactures a pediatric vaccine and is not receiving the vaccine under such section, if the Secretary determines that the program of the State under 2102(b)(3) is carried out with respect to the vaccine, the Secretary shall provide to the State an amount equal to the value of the quantity of such vaccine

that otherwise would have been delivered to the State under section 2101, subject to the provisions of this subsection.

''(2) DETERMINATION OF VALUE.—In determining the amount to pay a State under paragraph (1) with respect to a pediatric vaccine, the value of the quantity of vaccine shall be determined on the basis of the price in effect for the vaccine under contracts under section 2108. If more than 1 such contract is in effect, the Secretary shall determine such value on the basis of the average of the prices under the contracts, after weighting each such price in relation to the quantity of vaccine under the contract involved.

''(3) USE OF PAYMENTS.—A State may expend payments received under paragraph (1) only for purposes relating to pediatric vaccines.

''CHILDHOOD IMMUNIZATION TRUST FUND

SEC. 2110. (a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the National Childhood Immunization Trust Fund (in this section referred to as the 'Fund'), consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

''(b) TRANSFERS TO THE FUND.—

"(1) IN GENERAL.—There is hereby appropriated to the Fund amounts equivalent to the amount of any reductions in Federal expenditures under title XIX resulting from the enactment of this title and section 1903(x).

"(2) TRANSFERS BASED ON ESTIMATES.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in such section. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(c) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Amounts in the Fund are available to the Secretary for the purpose of carrying out this title. Amounts appropriated or credited to the Fund shall remain available until expended.

"(2) BUDGET EFFECT.—Payments under the program under this title, and the costs of carrying out such program, shall be exempt from reduction under any order issued under part C of the Bal-

anced Budget and Emergency Deficit Control Act of 1985.

''(d) INVESTMENT.—

''(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

''(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

''(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and proceeds from any sale or redemption of such obligations, shall be credited to and form a part of the Fund.

''DEFINITIONS

''SEC. 2111. For purposes of this title:

''(1) The term 'eligible child' has the meaning given such term in section 2101(b).

''(2) The term 'federally supplied', with respect to a pediatric vaccine, means that such vaccine is

purchased and delivered on behalf of a State under section 2101(a).

''(3) The term 'health care provider', with respect to the administration of vaccines to children, means an entity that is licensed or otherwise authorized for such administration under the law of the State in which the entity administers the vaccine.

''(4) The term 'immunization' means an immunization against a vaccine-preventable disease.

''(5) Each of the terms 'Indian', 'Indian tribe', and 'tribal organization' has the meaning given such term in section 4 of the Indian Health Care Improvement Act.

''(6) The term 'Indian child' means an Indian who is 18 years of age or younger.

''(7) The term 'manufacturer' means any corporation, organization, or institution, whether public or private (including Federal, State, and local departments, agencies, and instrumentalities), which manufactures, imports, processes, or distributes under its label any pediatric vaccine. The term 'manufacture' means to manufacture, import, process, or distribute a vaccine.

''(8) The term 'parent', with respect to a child, means a legal guardian of the child.

"(9) The term 'participating State under section 2101' means a State that has submitted to the Secretary an application in accordance with section 2107.

"(10) The term 'pediatric vaccine' means a vaccine included on the list established under section 1932.

"(11) The term 'program-registered provider' has the meaning given such term in 2103(a)(2).

"TERMINATION OF PROGRAM

"SEC. 2112. (a) IN GENERAL.—This title shall cease to be in effect beginning on such date as may be prescribed in Federal law providing for immunization services for all children as part of a broad-based reform of the national health care system.".

(b) NATIONAL IMMUNIZATION TRACKING SYSTEM.—On such date as section 2101 of the Social Security Act (as added by subsection (a)) shall cease to be in effect as provided in subsection (a), the Secretary of Health and Human Services shall implement a program to ensure participation of all health care providers in a national immunization tracking system.

(c) CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER GROUP HEALTH PLANS.—

(1) REQUIREMENT.—The requirement of this paragraph, with respect to a group health plan for

plan years beginning after the date of the enactment of this Act, is that the group health plan not reduce its coverage of the costs of pediatric vaccines (as defined under section 2111 of the Social Security Act) below the coverage it provided as of May 1, 1993.

(2) ENFORCEMENT.—For purposes of subsections (a) through (e) of section 4980B of the Internal Revenue Code of 1986, paragraph (1) is deemed a requirement of subsection (f) of such section.

(d) STATE CONTRIBUTION TO COST OF IMMUNIZATIONS.—

(1) OFFSET OF MEDICAID MATCHING.—Section 1903 (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

''(x) STATE CONTRIBUTION TO COST OF IMMUNIZATIONS.—

''(1) MATCHING REDUCTION REQUIRED.—The amount determined under subsection (a)(1) for any State participating in the central bulk purchasing program for pediatric vaccines under title XXI for any quarter shall be reduced by an amount equal to—

''(A) 25 percent of the product of the State's base year vaccine expenditures (as de-

fined in paragraph (2)) and the cost-of-living adjustment (as determined under paragraph (4)) for the calendar year in which the quarter ends, less

''(B) the State's additional compliance costs (as defined in paragraph (3)) for the quarter.

''(2) BASE YEAR VACCINE EXPENDITURES.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'base year vaccine expenditures' for any State means an amount equal to—

''(i) the State's expenditures for pediatric vaccines during the State's fiscal year 1993, as determined by the Secretary in accordance with the methodology established under subparagraph (5), less

''(ii) the Federal payments made to the State under subsection (a)(1) with respect to the State expenditures referred to in clause (i).

''(3) ADDITIONAL COMPLIANCE COSTS.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'additional compliance

costs' for any State for any quarter means the amount by which—

"(i)(I) the State's expenditures for the administration of pediatric vaccines for the quarter, less

"(II) the Federal payments to be made to the State under subsection (a)(1) with respect to the State expenditures referred to in subclause (I), exceeds

"(ii) 25 percent of the product of the State's base year administration expenditures (as defined in subparagraph (B)) and the cost-of-living adjustment (as determined under paragraph (4)) for the calendar year in which the quarter ends.

"(B) BASE YEAR VACCINE ADMINISTRATION EXPENDITURES.—For purposes of this subsection, the term 'base year administration expenditures' for any State means an amount equal to—

"(i) the State's expenditures for the administration of pediatric vaccines during the State's fiscal year 1993, as determined by the Secretary in accordance with the

methodology established under paragraph (5), less

''(ii) the Federal payments made to the State under subsection (a)(1) with respect to the State expenditures referred to in clause (i).

''(4) COST-OF-LIVING-ADJUSTMENT.—

''(A) IN GENERAL.—For purposes of this subsection, the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

''(i) the MCPI for the preceding calendar year, exceeds

''(ii) the MCPI for calendar year 1992.

''(B) MCPI FOR ANY CALENDAR YEAR.—For purposes of subparagraph (A), the MCPI for any calendar year is the average of the medical care expenditures category of the Consumer Price Index for all urban consumers (U.S. city average) published by the Department of Labor as of the close of the 12-month period ending on August 31 of such calendar year.

''(5) METHODOLOGY.—

''(A) IN GENERAL.—The Secretary shall establish by regulation a methodology to estimate the State's expenditures during the State's fiscal year 1993—

''(i) for pediatric vaccines under the State plan under this title; and

''(ii) for the administration of pediatric vaccines under the State plan under this title.

''(B) ELEMENTS OF METHODOLOGY.—The methodology established under subparagraph (A)—

''(i) need not be based on actual costs per child;

''(ii) may include assumptions or estimates, based on the most reliable information generally available to the Secretary, as to the proportions of children immunized in clinics and by providers in private practice, vaccine costs per child immunized in each type of setting, and other factors; and

''(iii) shall provide for appropriate adjustment of the estimate where the State demonstrates to the Secretary's satisfaction that its actual expenditures for pedi-

atric vaccines and the administration of such vaccines during the State's fiscal year 1993 were lower than expenditures estimated by the Secretary.

''(6) TRANSFER TO IMMUNIZATION TRUST FUND.—

''(A) IN GENERAL.—For each calendar quarter beginning on or after October 1, 1995, the Secretary shall transfer to the National Childhood Immunization Trust Fund established under section 2110 an amount equal to the sum of—

''(i) the total reductions in Federal matching payments to all States pursuant to paragraph (1), and

''(ii) the amount equal to the sum of the Federal share of State expenditures for all States (as defined in subparagraph (B)).

''(B) FEDERAL SHARE OF STATE EXPENDITURES.—For purposes of this paragraph, the term 'Federal share of State expenditures', with respect to a State, means an amount equal to the product of—

"(i) the Federal medical assistance percentage for the State, and

"(ii) the amount specified in paragraph (1)(A) for the State.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective for calendar quarters beginning on or after October 1, 1994.

PART III—DISCLOSURE PROVISIONS

SEC. 7901. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.

(a) GENERAL RULE.—Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking "September 30, 1997" in the second sentence following clause (viii) and inserting "September 30, 1998".

(b) AUTHORITY FOR SECRETARY OF VETERANS AFFAIRS TO OBTAIN INFORMATION.—Section 5317(g) of title 38, United States Code, is amended by striking out "September 30, 1997" and inserting "September 30, 1998".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 7902. DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.

(a) GENERAL RULE.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end thereof the following new paragraph:

''(13) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.—

''(A) IN GENERAL.—The Secretary may, upon written request from the Secretary of Education, disclose to officers and employees of the Department of Education return information with respect to a taxpayer who has received an applicable student loan and whose loan repayment amounts are based in whole or in part on the taxpayer's income. Such return information shall be limited to—

''(i) taxpayer identity information with respect to such taxpayer,

''(ii) the filing status of such taxpayer, and

''(iii) the adjusted gross income of such taxpayer.

''(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Education only for the purposes of, and to the extent necessary in, establishing the appropriate income contingent repayment amount for an applicable student loan.

''(C) APPLICABLE STUDENT LOAN.—For purposes of this paragraph, the term 'applicable student loan' means—

''(i) any loan made under the program authorized under part D of title IV of the Higher Education Act of 1965, and

''(ii) any loan made under part B or E of title IV of the Higher Education Act of 1965 which is in default and has been assigned to the Department of Education.

''(D) TERMINATION.—This paragraph shall not apply to any request made after September 30, 1998.''

(b) CONFORMING AMENDMENTS.—

(1) So much of paragraph (4) of section 6103(m) of such Code as precedes subparagraph (B) thereof is amended to read as follows:

''(4) INDIVIDUALS WHO OWE AN OVERPAYMENT OF FEDERAL PELL GRANTS OR WHO HAVE DEFAULTED ON STUDENT LOANS ADMINISTERED BY THE DEPARTMENT OF EDUCATION.—

''(A) IN GENERAL.—Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer—

''(i) who owes an overpayment of a grant awarded to such taxpayer under subpart 1 of part A of title IV of the Higher Education Act of 1965, or

''(ii) who has defaulted on a loan—

''(I) made under part B, D, or E of title IV of the Higher Education Act of 1965, or

''(II) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education,

for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such overpayment or loan .''

(2) Subparagraph (B) of section 6103(m)(4) of such Code is amended—

(A) in clause (i), by striking ''under part B'' and inserting ''under part B or D''; and

(B) in clause (ii), by striking ''under part E'' and inserting ''under subpart 1 of part A, or part D or E,'';

(3) Section 6103(p) of such Code is amended—

(A) in paragraph (3)(A), by striking ''(11), or (12), (m)'' and inserting ''(11), (12), or (13), (m)'';

(B) in paragraph (4)—

(i) in the matter preceding subparagraph (A), by striking out ''(10), or (11),'' and inserting ''(10), (11), or (13),'', and

(ii) in subparagraph (F)(ii), by striking ''(11), or (12),'' and inserting ''(11), (12), or (13),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 7903. USE OF RETURN INFORMATION FOR INCOME VERIFICATION UNDER CERTAIN HOUSING ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 (relating to the disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(1) in clause (vii), by striking ''and'' at the end;

(2) in clause (viii), by striking the period at the end and inserting ''; and'';

(3) by inserting after clause (viii) the following new clause:

''(ix) any housing assistance program administered by the Department of Housing and Urban Development that involves initial and periodic review of an applicant's or participant's income, except that return information may be disclosed under this clause only on written request by the Secretary of Housing and Urban Development and only for use by officers and employees of the Department of Housing and Urban Development with respect to applicants for and participants in such programs.''; and

(4) by adding at the end thereof the following: ''Clause (ix) shall not apply after September 30, 1998.''

(b) CONFORMING AMENDMENT.—The heading of paragraph (7) of section 6103(l) of such Code is amended by inserting after ''CODE'' the following: '', OR CERTAIN HOUSING ASSISTANCE PROGRAMS''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 7904. USE OF RETURN INFORMATION FOR HEALTH COVERAGE CLEARINGHOUSE.

(a) ESTABLISHMENT OF HEALTH COVERAGE CLEARINGHOUSE.—Part A of title XI (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

''THIRD PARTY LIABILITY CLEARINGHOUSE

''SEC. 1144. (a) ESTABLISHMENT OF CLEARINGHOUSE.—

''(1) IN GENERAL.—The Secretary shall establish and operate a Third Party Liability Clearinghouse (hereafter in this section referred to as the 'Clearinghouse') for the purpose of identifying third parties responsible for payment for health care items and services furnished to beneficiaries of the medicare program under title XVIII and the medicaid program under title XIX.

"(2) DIRECTOR.—The Clearinghouse established pursuant to paragraph (1) shall be headed by a Director.

"(b) DATA BANK.—

"(1) MAINTENANCE OF INFORMATION.—The Clearinghouse shall maintain a data bank containing information obtained pursuant to section 6103(l)(12) of the Internal Revenue Code of 1986. Information in the data bank shall be retained for not less than 1 year after the date the information was obtained.

"(2) DISCLOSURE OF INFORMATION IN DATA BANK.—The Director is authorized (subject to the restriction in section 6103(l)(12)(E)(i) of the Internal Revenue Code of 1986) to disclose any information in the data bank established pursuant to paragraph (1) to the Commissioner of Social Security, the Secretary of the Treasury, employers, group health plans, the administrator of the medicare program under title XVIII, and the administrators of the medicaid program under title XIX, to the extent necessary to assist the administration of such programs.

"(c) REQUIREMENT THAT EMPLOYERS FURNISH INFORMATION.—

"(1) IN GENERAL.—An employer shall furnish to the Director the information requested pursuant to section 6103(l)(12)(C)(i) of the Internal Revenue Code of 1986 within 60 days after receipt of such a request.

"(2) CIVIL MONEY PENALTY FOR FAILURE TO COOPERATE.—An employer (other than a Federal or other governmental entity) who willfully or repeatedly fails to provide a timely and accurate response to a request for information pursuant to paragraph (1) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not to exceed $1,000 for each individual or individual's spouse with respect to which such a request is made. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to such civil money penalty in the same manner as such provisions apply to penalties or proceedings under section 1128A(a).

"(d) COLLECTIONS FROM THIRD PARTIES.—The Director is authorized, upon request by the administrator of the medicare program under title XVIII or any administrator of the medicaid program under title XIX, to assist in the collection of amounts due from liable third parties

to reimburse costs incurred by such program for health care items and services.

''(e) FEES FOR CLEARINGHOUSE SERVICES.—The Director shall establish fees for services provided under section 6103(l)(12)(C)(ii) of the Internal Revenue Code of 1986 and subsection (d) which are designed to cover the full costs to the Clearinghouse of providing such services. Clearinghouse services under such section and subsection shall be available subject to payment of such fees.

''(f) EVALUATION RESPONSIBILITIES.—The Director shall evaluate methods for improving—

''(1) procedures for the collection, management, and appropriate disclosure of health care coverage information, and

''(2) Federal laws and policies concerning third party liability for medical care.

''(g) DEFINITIONS.—For purposes of this section, the term 'group health plan' has the meaning given to such term in section 6103(l)(12)(G) of the Internal Revenue Code of 1986.''.

(b) DISCLOSURE OF TAX RETURN INFORMATION.—

(1) IN GENERAL.—Paragraph (12) of section 6103(l) of the Internal Revenue Code of 1986, as amended by section 7303, is amended to read as follows:

"(12) DISCLOSURE OF CERTAIN TAXPAYER RETURN INFORMATION FOR PURPOSES OF IDENTIFYING HEALTH INSURANCE COVERAGE OF CERTAIN INDIVIDUALS AND SPOUSES.—

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon written request from the Commissioner of Social Security (referred to in this subparagraph as the 'Commissioner'), disclose to the Commissioner available filing status and taxpayer identity information from the individual master files of the Internal Revenue Service relating to whether any individual identified by the Commissioner was a married individual (as defined in section 7703) for any specified year after 1986, and, if so, the name of the spouse of such individual and such spouse's TIN.

"(B) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION.—The Commissioner shall, upon written request from the Director of the Third Party Liability Clearinghouse (referred to in this subparagraph as the 'Director'), disclose to the Director the following information with respect to the individuals,

and the spouses of such individuals, specified in subparagraph (A):

''(i) For each such individual who is identified as having received wages (as defined in section 3401(a)) above an amount (if any) specified by the Secretary of Health and Human Services from an employer in a previous year—

''(I) the name and TIN of the individual,

''(II) the name, address, and TIN of the employer, and

''(III) the information reported under section 6051(a)(10).

''(ii) For each individual who was identified as married under subparagraph (A) and whose spouse is identified as having received wages above an amount (if any) specified by the Secretary of Health and Human Services from an employer in a previous year—

''(I) the name and TIN of the individual,

''(II) the name and TIN of the spouse,

''(III) the name, address, and TIN of the spouse's employer, and

''(IV) the information reported under section 6051(a)(10) with respect to the spouse.

''(C) DISCLOSURE BY THIRD PARTY LIABILITY CLEARINGHOUSE.—The Director may (subject to the provisions of subparagraph (E)) disclose—

''(i) with respect to the information disclosed under subparagraph (B), to the employer referred to in such subparagraph the name and TIN of each individual identified under such subparagraph as having received wages from the employer (hereafter referred to in this subparagraph as the 'employee') for purposes of determining during what period such employee or the employee's spouse may be (or have been) covered under a group health plan of the employer and what benefits are or were covered under the plan (including the name, address, and identifying number of the plan),

''(ii) to the administrator of the medicare program under title XVIII of the Social Security Act or to any administrator of the medicaid program under title XIX of such Act the information disclosed under subparagraph (B) and clause (i) for purposes of providing information concerning employment and group health coverage of individuals and individual's spouses who are program beneficiaries,

''(iii) to any agent of such Director the information referred to in subparagraph (B) for purposes of carrying out clauses (i) and (ii) on behalf of such Director, and

''(iv) to any person specified in subsection (b)(2) of section 1144 of the Social Security Act, information in the data bank established pursuant to subsection (b)(1) of such section, for the purposes specified in such subsection.

''(D) DISCLOSURE BY CERTAIN PROGRAMS TO GROUP HEALTH PLANS.—The administrator of the medicare program under title XVIII of the Social Security Act or any administrator of

the medicaid program under title XIX of such Act may (subject to the provisions of subparagraph (E)) disclose information concerning an employee or spouse disclosed to the Director pursuant to subparagraph (B) and redisclosed to such administrator pursuant to subparagraph (C)—

''(i) to any group health plan which provides or provided coverage to such employee or spouse, and

''(ii) to any agent of such administrator,

for purposes of identifying, or collecting on claims under coverage of such employee or spouse under such group health plan.

''(E) SPECIAL RULES.—

''(i) RESTRICTIONS ON DISCLOSURE.—Information may be disclosed under subparagraphs (A) through (D) only for purposes of, and to the extent necessary in, determining the extent to which any individual is covered under any group health plan.

''(ii) TIMELY RESPONSE TO REQUESTS.—Any request made under sub-

paragraph (A) or (B) shall be complied with as soon as possible but in no event later than 120 days after the date the request was made.

''(F) DISCLOSURE CONCERNING ENFORCEMENT ACTIVITIES.—The Secretary shall, upon written request from the Secretary of Health and Human Services, disclose to the Secretary of Health and Human Services the status of any activities undertaken (with respect to persons specified by the Secretary of Health and Human Services) to enforce the requirements of section 5000.

''(G) DEFINITIONS.—For purposes of this paragraph, the term 'group health plan' means any group health plan (as defined in section 5000(b)).''.

(2) REPORTING OF GROUP HEALTH PLAN INFORMATION.—Section 6051(a) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''and'' at the end of paragraph (8),

(B) by striking the period at the end of paragraph (9) and inserting '', and'', and

(C) by inserting after paragraph (9) the following new paragraph:

''(10) whether a group health plan (as defined in section 6103(l)(12)(G)) is available to the employee and the plan coverage (single or family) elected by such employee (if any).''.

(c) CONFORMING AMENDMENT.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)), as amended by section 7303, is amended to read as follows:

''(5) IDENTIFICATION OF SECONDARY PAYER SITUATIONS.—In addition to any other information provided under this title to fiscal intermediaries and carriers, the Administrator shall disclose to such intermediaries and carriers (or to such a single intermediary or carrier as the Secretary may designate) the information received under section 6103(l)(12)(C)(ii) of the Internal Revenue Code of 1986.''.

(d) EXCEPTION FROM PRIVACY ACT REQUIREMENTS.—Subsection (a)(8)(B) of section 552a of title 5, United States Code, is amended—

(1) in clause (v), by striking ''; or'' at the end;

(2) in clause (vi), by striking the semicolon at the end and inserting ''; or''; and

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

"(vii) matches performed pursuant to section 6103(l)(12) of the Internal Revenue Code of 1986 and section 1144 of the Social Security Act for the purpose of identifying third parties responsible for payment for health care items and services furnished to beneficiaries of certain Federal and federally assisted programs;".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1995.

PART IV—OTHER PROVISIONS

SEC. 7950. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 of the Internal Revenue Code of 1986 (relating to income tax refund within 45 days after return is filed) is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (de-

termined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

''(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If—

''(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

''(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

''(3) IRS INITIATED ADJUSTMENTS.—If an adjustment initiated by the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment.''

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the

due date for which (determined without regard to extensions) is on or after January 1, 1994.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after January 1, 1995, regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after January 1, 1995, regardless of the taxable period to which such refund relates.

SEC. 7951. FEES FOR APPLICATIONS FOR ALCOHOL LABELING AND FORMULA REVIEWS.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate (hereinafter in this section referred to as the 'Secretary') shall establish a program requiring the payment of user fees for—

(1) requests for each certificate of alcohol label approval required under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) and for each request for exemption from such requirement, and

(2) requests for each formula review, and requests for each statement of process (including laboratory tests and analyses), under such Act or under chapter 51 of the Internal Revenue Code of 1986.

(b) PROGRAM CRITERIA.—

(1) IN GENERAL.—The fees charged under the program required by subsection (a) shall be determined such that the Secretary estimates that the aggregate of such fees received during any fiscal year will be $5,000,000.

(2) MINIMUM FEES.—The fee charged under the program required by subsection (a) shall not be less than—

(A) $50 for each request referred to in subsection (a)(1), and

(B) $250 for each request referred to in subsection (a)(2).

(c) APPLICATION OF SECTION.—Subsection (a) shall apply to requests made on or after the 90th day after the date of the enactment of this Act.

(d) DEPOSIT AND CREDIT AS OFFSETTING RECEIPTS.—The amounts collected by the Secretary under the program required by subsection (a) (to the extent such amounts do not exceed $5,000,000) shall be deposited into the Treasury as offsetting receipts and ascribed to the alcohol compliance program of the Bureau of Alcohol, Tobacco, and Firearms.

SEC. 7952. USE OF HARBOR MAINTENANCE TRUST FUND AMOUNTS FOR ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Paragraph (3) of section 9505(c) of the Internal Revenue Code of 1986 (relating to expenditures from Harbor Maintenance Trust Fund) is amended to read as follows:

''(3) for the payment of all expenses of administration incurred by the Department of the Treasury, the Army Corps of Engineers, and the Department of Commerce related to the administration of subchapter A of chapter 36 (relating to harbor maintenance tax), but not in excess of $5,000,000 for any fiscal year.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to fiscal years beginning after the date of the enactment of this Act.

SEC. 7953. INCREASE IN PRESIDENTIAL ELECTION CAMPAIGN FUND CHECK-OFF.

(a) IN GENERAL.—Section 6096(a) of the Internal Revenue Code of 1986 (relating to designation by individuals) is amended—

(1) by striking ''$1'' each place it appears and inserting ''$3'', and

(2) by striking ''$2'' and inserting ''$6''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to tax returns required to be filed after December 31, 1993.

SEC. 7954. INCREASE IN PUBLIC DEBT LIMIT.

(a) GENERAL RULE.—Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof ''$4,900,000,000,000''.

(b) REPEAL OF TEMPORARY INCREASE.—Effective on and after the date of the enactment of this Act, section 1 of Public Law 103–12 is hereby repealed.

TITLE VIII—FINANCE COMMITTEE REVENUE PROVISIONS

SEC. 8000. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the ''Revenue Reconciliation Act of 1993''.

(b) AMENDMENT TO 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 NOT TO APPLY.—Except in the case of the amendments made by section 8221 (relating to corporate rate increase), no amendment made by this title

shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) WAIVER OF ESTIMATED TAX PENALTIES.—No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for any period before April 16, 1994 (March 16, 1994, in the case of a corporation), with respect to any underpayment to the extent such underpayment was created or increased by any provision of this title.

(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.

PART V—LUXURY TAX

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.
Sec. 8175. Temporary extension of deduction for health insurance costs of self-employed individuals.

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.
Sec. 8215. Social security and tier 1 railroad retirement benefits.

PART II—PROVISIONS AFFECTING BUSINESSES

Sec. 8221. Increase in top marginal rate under section 11.
Sec. 8222. Disallowance of deduction for lobbying expenditures.
Sec. 8223. Mark to market accounting method for securities dealers.
Sec. 8224. Clarification of treatment of certain FSLIC financial assistance.
Sec. 8225. Modification of corporate estimated tax rules.
Sec. 8226. Modifications of discharge of indebtedness provisions.
Sec. 8227. Limitation on section 936 credit.
Sec. 8228. Modification to limitation on deduction for certain interest.

PART III—FOREIGN TAX PROVISIONS

SUBPART A—CURRENT TAXATION OF CERTAIN EARNINGS OF CONTROLLED FOREIGN CORPORATIONS

Sec. 8231. Earnings invested in excess passive assets.
Sec. 8232. Modification to taxation of investment in United States property.
Sec. 8233. Other modifications to Subpart F.

SUBPART B—ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES

Sec. 8234. Allocation of research and experimental expenditures.

SUBPART C—OTHER PROVISIONS

Sec. 8235. Repeal of certain exceptions for working capital.
Sec. 8236. Modifications of accuracy-related penalty.
Sec. 8237. Denial of portfolio interest exemption for contingent interest.
Sec. 8238. Regulations dealing with conduit arrangements.
Sec. 8239. Treatment of export of certain softwood logs.

PART IV—TRANSPORTATION FUELS PROVISIONS

SUBPART A—TRANSPORTATION FUELS TAX

Sec. 8241. Transportation fuels tax.

SUBPART B—MODIFICATIONS TO TAX ON DIESEL FUEL

Sec. 8242. Modifications to tax on diesel fuel.
Sec. 8243. Floor stocks tax.

SUBPART C—EXTENSION OF MOTOR FUEL TAX RATES; INCREASED DEPOSITS INTO HIGHWAY TRUST FUND

Sec. 8244. Extension of motor fuel tax rates; increased deposits into Highway Trust Fund.

PART V—COMPLIANCE PROVISIONS

Sec. 8251. Reporting required for certain payments to corporations.
Sec. 8252. Modifications to substantial understatement and return-preparer penalties.
Sec. 8253. Returns relating to the cancellation of indebtedness by certain financial entities.

PART VI—TREATMENT OF INTANGIBLES

Sec. 8261. Amortization of goodwill and certain other intangibles.
Sec. 8262. Treatment of certain payments to retired or deceased partner.

PART VII—MISCELLANEOUS PROVISIONS

Sec. 8271. Denial of deduction relating to travel expenses.
Sec. 8272. Increase in withholding from supplemental wage payments.
Sec. 8273. Excise tax on certain vaccines made permanent.

Subtitle A—Training and Investment Incentives

PART I—PROVISIONS RELATING TO EDUCATION AND TRAINING

SEC. 8101. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) EXTENSION OF EXCLUSION.—

(1) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended to read as follows:

''(d) TERMINATION.—

"(1) IN GENERAL.—This section shall not apply to taxable years beginning after June 30, 1994.

"(2) SPECIAL RULE.—In the case of any taxable year beginning in 1994, only amounts paid before July 1, 1994, by the employer for educational assistance for any employee shall be taken into account for purposes of this section."

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 103(a) of the Tax Extension Act of 1991 is hereby repealed.

(b) COORDINATION WITH SECTION 132.—Paragraph (8) of section 132(i) is amended to read as follows:

"(8) APPLICATION OF SECTION TO OTHERWISE TAXABLE EDUCATIONAL OR TRAINING BENEFITS.—Amounts paid or expenses incurred by the employer for education or training provided to the employee which are not excludable from gross income under section 127 shall be excluded from gross income under this section if (and only if) such amounts or expenses are a working condition fringe."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to taxable years ending after June 30, 1992.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1988.

SEC. 8102. TARGETED JOBS CREDIT.

(a) EXTENSION OF CREDIT.—Paragraph (4) of section 51(c) (relating to amount of targeted jobs credit) is amended by striking ''1992'' and inserting ''1994''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after June 30, 1992.

PART II—INVESTMENT INCENTIVES

Subpart A—Research Credit

SEC. 8111. EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for research activities) is amended to read as follows:

''(h) NONAPPLICABILITY.—

''(1) IN GENERAL.—This section shall not apply to amounts paid or incurred during any suspension period.

''(2) BASE AMOUNT.—In the case of any taxable year which includes a portion of any suspension period, the base amount with respect to such taxable year shall be the amount which bears the same ratio to the base amount for such year (determined with-

out regard to this paragraph) as the number of days in such taxable year which are not in any suspension period bears to the total number of days in such taxable year.

''(3) FIXED-BASE PERCENTAGE.—The fixed-base percentage under subsection (c)(3)(B)(ii) shall be computed as if this section were in effect during any suspension period.

''(4) SUSPENSION PERIOD.—For purposes of this subsection, the term 'suspension period' includes—

''(A) the period beginning July 1, 1992, and ending June 30, 1993, and

''(B) any period after June 30, 1994.''

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking ''for periods after June 30, 1992'' and inserting ''during any suspension period (as defined in section 41(h)(4))''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 8112. MODIFICATION OF FIXED BASE PERCENTAGE FOR STARTUP COMPANIES.

(a) GENERAL RULE.—Clause (ii) of section 41(c)(3)(B) is amended to read as follows:

"(ii) FIXED-BASE PERCENTAGE.—In a case to which this subparagraph applies, the fixed-base percentage is—

"(I) 3 percent for each of the taxpayer's 1st 5 taxable years beginning after December 31, 1993, for which the taxpayer has qualified research expenses,

"(II) in the case of the taxpayer's 6th such taxable year, ⅙ of the percentage which the aggregate qualified research expenses of the taxpayer for the 4th and 5th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(III) in the case of the taxpayer's 7th such taxable year, ⅓ of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th and 6th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(IV) in the case of the taxpayer's 8th such taxable year, ½ of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, and 7th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(V) in the case of the taxpayer's 9th such taxable year, ⅔ of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, and 8th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(VI) in the case of the taxpayer's 10th such taxable year, ⅚ of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, 8th, and 9th such taxable years is of the aggregate gross receipts of the taxpayer for such years, and

''(VII) for taxable years thereafter, the percentage which the aggregate qualified research expenses for any 5 taxable years selected by the taxpayer from among the 5th through the 10th such taxable years is of the aggregate gross receipts of the taxpayer for such selected years.''.

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 41(c)(3)(B) is amended by striking ''clause (i)'' and inserting ''clauses (i) and (ii)''.

(2) Subparagraph (D) of section 41(c)(3) is amended by striking ''subparagraph (A)'' and inserting ''subparagraphs (A) and (B)(ii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart B—Modification To Minimum Tax Depreciation Rules

SEC. 8115. MODIFICATION TO MINIMUM TAX DEPRECIATION RULES.

(a) ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current

earnings) is amended by adding at the end thereof the following new sentence: ''The preceding sentence shall not apply to any property placed in service after December 31, 1993, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A).''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 1993.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) thereof.

Subpart C—Increase in Expense Treatment for Small Businesses

SEC. 8119. INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended by striking ''$10,000'' and inserting ''$15,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

Subpart D—Tax Exempt Bonds

SEC. 8121. EXTENSION OF QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) is amended by striking ''1992'' and inserting ''1994''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

PART III—EXPANSION AND SIMPLIFICATION OF EARNED INCOME TAX CREDIT

SEC. 8131. EXPANSION AND SIMPLIFICATION OF EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—Section 32 (relating to earned income credit) is amended by striking subsections (a) and (b) and inserting the following:

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed the earned income amount.

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall not exceed the excess (if any) of—

"(A) the credit percentage of the earned income amount, over

"(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the phaseout amount.

"(b) PERCENTAGES AND AMOUNTS.—For purposes of subsection (a)—

"(1) PERCENTAGES.—The credit percentage and the phaseout percentage shall be determined as follows:

"(A) IN GENERAL.—In the case of taxable years beginning after 1995:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	34	16.16
2 or more qualifying children	39	20.72

"(B) TRANSITIONAL PERCENTAGES FOR 1995.—In the case of a taxable year beginning in 1995:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	34	16.16
2 or more qualifying children	34	15.94

"(C) TRANSITIONAL PERCENTAGES FOR 1994.—In the case of a taxable year beginning in 1994:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	26	16.16
2 or more qualifying children	30	15.94

"(2) AMOUNTS.—The earned income amount and the phaseout amount shall be determined as follows:

"(A) IN GENERAL.—In the case of taxable years beginning after 1994:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	$6,000	$11,000
2 or more qualifying children	$8,500	$11,000

"(B) TRANSITIONAL AMOUNTS.—In the case of a taxable year beginning in 1994:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	$7,750	$11,000
2 or more qualifying children	$8,500	$11,000."

(b) INFLATION ADJUSTMENTS.—Section 32(i) (relating to inflation adjustments) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following new paragraph:

"(1) IN GENERAL.—In the case of any taxable year beginning after 1994, each dollar amount con-

tained in subsection (b)(2)(A) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1993' for 'calendar year 1992'.'', and

(2) by redesignating paragraph (3) as paragraph (2).

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 32(c)(3) is amended—

(A) by striking ''clause (i) or (ii)'' in clause (iii) and inserting ''clause (i)'',

(B) by striking clause (ii), and

(C) by redesignating clause (iii) as clause (ii).

(2) Paragraph (3) of section 162(l) is amended to read as follows:

''(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allow-

able to the taxpayer as a deduction under section 213(a).''

(3) Section 213 is amended by striking subsection (f).

(4) Subsection (b) of section 3507 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) certifies that the employee has 1 or more qualifying children (within the meaning of section 32(c)(3)) for such taxable year,''.

(5) Subparagraph (B) of section 3507(c)(2) is amended by striking clauses (i) and (ii) and inserting the following:

''(i) of not more than the credit percentage in effect under section 32(b)(1) for an eligible individual with 1 qualifying child and with earned income not in excess of the earned income amount in effect under section 32(b)(2) for such an eligible individual, which

''(ii) phases out at the phaseout percentage in effect under section 32(b)(1) for such an eligible individual between the phaseout amount in effect under section

32(b)(2) for such an eligible individual and the amount of earned income at which the credit under section 32(a) phases out for such an eligible individual, or''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

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.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking ''1992'' each place it appears and inserting ''1994''.

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 is amended by striking ''1992'' and inserting ''1994''.

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

SEC. 8142. LOW-INCOME HOUSING CREDIT.

(a) PERMANENT EXTENSION.—

(1) IN GENERAL.—Section 42 (relating to low-income housing credit) is amended by striking subsection (o).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to periods ending after June 30, 1992.

(b) MODIFICATIONS.—

(1) HOUSING CREDIT AGENCY DETERMINATION OF REASONABLENESS OF PROJECT COSTS.—Subparagraph (B) of section 42(m)(2) (relating to credit allocated to building not to exceed amount necessary to assure project feasibility) is amended—

(A) by striking ''and'' at the end of clause (ii),

(B) by striking the period at the end of clause (iii) and inserting '', and'', and

(C) by inserting after clause (iii) the following new clause:

"(iv) the reasonableness of the developmental and operational costs of the project."

(2) UNITS WITH CERTAIN FULL-TIME STUDENTS NOT DISQUALIFIED.—Subparagraph (D) of section 42(i)(3) (defining low-income unit) is amended to read as follows:

"(D) CERTAIN STUDENTS NOT TO DISQUALIFY UNIT.—A unit shall not fail to be treated as a low-income unit merely because it is occupied—

"(i) by an individual who is—

"(I) a student and receiving assistance under title IV of the Social Security Act, or

"(II) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

"(ii) entirely by full-time students if such students are—

"(I) single parents and their children and such parents and children

are not dependents (as defined in section 152) of another individual, or

''(II) married and file a joint return.''

(3) TREASURY WAIVERS OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—Subsection (g) of section 42 (relating to qualified low-income housing projects) is amended by adding at the end thereof the following new paragraph:

''(8) WAIVER OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—On application by the taxpayer, the Secretary may waive—

''(A) any recapture under subsection (j) in the case of any de minimis error in complying with paragraph (1), or

''(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by low-income tenants.''

(4) DISCRIMINATION AGAINST TENANTS PROHIBITED.—Section 42(h)(6)(B) (defining extended low-income housing commitment) is amended by redesignating clauses (iv) and (v) as clauses (v) and (vi) and by inserting after clause (iii) the following new clause:

"(iv) which prohibits the refusal to lease to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder,".

(5) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to—

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings after June 30, 1992, or

(ii) buildings placed in service after June 30, 1992, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

(B) WAIVER AUTHORITY AND PROHIBITED DISCRIMINATION.—The amendments made by paragraphs (3) and (4) shall take effect on the date of the enactment of this Act.

(c) ELECTION TO DETERMINE RENT LIMITATION BASED ON NUMBER OF BEDROOMS AND DEEP RENT SKEWING.—In the case of a building to which the amendments made by subsection (e)(1) or (n)(2) of section 7108 of the Revenue Reconciliation Act of 1989 did not apply, the taxpayer may elect to have such amendments apply to such building but only with respect to tenants first occupying any unit in the building after the date of the election, and only if the taxpayer has met the requirements of the procedures described in section 42(m)(1)(B)(iii) of the Internal Revenue Code of 1986. Such an election may be made only during the 180 day period beginning on the date of the enactment of this Act and, once made, shall be irrevocable.

Subpart B—Passive Loss Rules

SEC. 8143. MODIFICATION OF PASSIVE LOSS RULES.

(a) GENERAL RULE.—Section 469 (relating to passive activity losses and credits limited) is amended by redesignating subsections (l) and (m) as subsections (m) and (n), respectively, and by inserting after subsection (k) the following new subsection:

''(l) SPECIAL RULES FOR REAL ESTATE ACTIVITIES.—

''(1) LOSS FROM CERTAIN RENTAL REAL ESTATE ACTIVITIES TREATED AS NOT PASSIVE.—If the

taxpayer meets the requirements of paragraph (2) for the taxable year, subsection (a) shall not apply to so much of the passive activity loss for such taxable year as does not exceed the least of—

''(A) the lesser of—

''(i) the net loss for such taxable year from rental real estate activities in which the taxpayer materially participates, or

''(ii) the net loss for such taxable year from all rental real estate activities of the taxpayer,

''(B) the net income of the taxpayer for the taxable year from real property trade or business activities which are not passive activities, or

''(C) the taxable income of the taxpayer for the taxable year determined without regard to this subsection.

A similar rule shall apply to any passive activity credit.

''(2) REQUIREMENTS.—The taxpayer meets the requirements of this paragraph for any taxable year if more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property

trades or businesses in which the taxpayer materially participates.

''(3) REAL PROPERTY TRADE OR BUSINESS.—For purposes of this paragraph, the term 'real property trade or business' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

''(4) SPECIAL RULES.—

''(A) PERSONAL SERVICES AS AN EMPLOYEE.—For purposes of paragraph (2), personal services performed as an employee shall not be treated as performed in real property trades or businesses. The preceding sentence shall not apply if such employee is a 5-percent owner (as defined in section 416(i)(1)(B)) in the employer.

''(B) CLOSELY HELD C CORPORATIONS.—This subsection shall not apply to any interests held by a closely held C corporation.

''(5) COORDINATION WITH SUBSECTION (i).—

''(A) IN GENERAL.—This subsection shall be applied after the application of subsection (i).

''(B) AMOUNTS ALLOWED UNDER SUBSECTION (i).—For purposes of this subsection—

''(i) the passive activity loss and passive activity credit, and

''(ii) the net loss referred to in paragraph (1)(A),

shall not include any amount allowed under subsection (i).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart C—Provisions Relating to Real Estate Investments by Pension Funds

SEC. 8144. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

''(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—Except as otherwise provided by regulations—

''(i) SMALL LEASES DISREGARDED.—For purposes of clauses (iii) and (iv) of

subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 25 percent of the leasable floor space in a building (or complex of buildings) is covered by the lease and if the lease is on commercially reasonable terms.

''(ii) COMMERCIALLY REASONABLE FINANCING.—Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms.

''(H) QUALIFYING SALES BY FINANCIAL INSTITUTIONS.—

''(i) IN GENERAL.—In the case of a qualifying sale by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

''(ii) QUALIFYING SALE.—For purposes of this clause, there is a qualifying sale by a financial institution if—

''(I) a qualified organization acquires property described in clause (iii) from a financial institution and

any gain recognized by the financial institution with respect to the property is ordinary income,

''(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the property described in clause (iii) immediately before the acquisition referred to in clause (iii) or (v), whichever is applicable, and

''(III) the present value (determined as of the time of the sale and by using the applicable Federal rate determined under section 1274(d)) of the maximum amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property cannot exceed 30 percent of the total purchase price of the property (including the contingent payments).

''(iii) PROPERTY TO WHICH SUBPARAGRAPH APPLIES.—Property is described in this clause if such property is foreclosure property, or is real property which—

''(I) was acquired by the qualified organization from a financial institution which is in conservatorship or receivership, or from the conservator or receiver of such an institution, and

''(II) was held by the financial institution at the time it entered into conservatorship or receivership.

''(iv) FINANCIAL INSTITUTION.—For purposes of this subparagraph, the term 'financial institution' means—

''(I) any financial institution described in section 581 or 591(a),

''(II) any other corporation which is a direct or indirect subsidiary of an institution referred to in subclause (I) but only if, by virtue of being affiliated with such institution, such other corporation is subject to supervision and examination by a Federal or

State agency which regulates institutions referred to in subclause (I), and

''(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II) (or any government agency or corporation succeeding to the rights or interest of such person).

''(v) FORECLOSURE PROPERTY.—For purposes of this subparagraph, the term 'foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured.''.

(b) CONFORMING AMENDMENT.—Paragraph (9) of section 514(c) is amended—

(1) by adding the following new sentence at the end of subparagraph (A): ''For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.'', and

(2) by striking the last sentence of subparagraph (B).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to acquisitions on or after January 1, 1994.

(2) SMALL LEASES.—The provisions of section 514(c)(9)(G)(i) of the Internal Revenue Code of 1986 shall, in addition to any leases to which the provisions apply by reason of paragraph (1), apply to leases entered into on or after January 1, 1994.

SEC. 8145. REPEAL OF SPECIAL TREATMENT OF PUBLICLY TREATED PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (c) of section 512 is amended—

(1) by striking paragraph (2),

(2) by redesignating paragraph (3) as paragraph (2), and

(3) by striking ''paragraph (1) or (2)'' in paragraph (2) (as so redesignated) and inserting ''paragraph (1)''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to partnership years beginning on or after January 1, 1994.

SEC. 8146. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

''(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any otherwise disqualifying income which is incidentally derived from the holding of real property.

''(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income.''

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: ''Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 1994.

SEC. 8147. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

''(16)(A) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property described in subparagraph (B) if—

''(i) such property was acquired by the organization from—

''(I) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

''(II) the conservator or receiver of such an institution (or any government agency or corporation succeeding to the rights or interests of the conservator or receiver),

''(ii) such property is designated by the organization within the 9-month period beginning on the date of its acquisition as property held

for sale, except that not more than one-half (by value determined as of such date) of property acquired in a single transaction may be so designated,

''(iii) such sale, exchange, or disposition occurs before the later of—

''(I) the date which is 30 months after the date of the acquisition of such property, or

''(II) the date specified by the Secretary in order to assure an orderly disposition of property held by persons described in subparagraph (A), and

''(iv) while such property was held by the organization, the aggregate expenditures on improvements and development activities included in the basis of the property are (or were) not in excess of 20 percent of the net selling price of such property.

''(B) Property is described in this subparagraph if it is real property which—

''(i) was held by the financial institution at the time it entered into conservatorship or receivership, or

''(ii) was foreclosure property (as defined in section 514(c)(9)(H)(v)) which secured indebtedness held by the financial institution at such time.

For purposes of this subparagraph, real property includes an interest in a mortgage.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property acquired on or after January 1, 1994.

SEC. 8148. EXCLUSION FROM UNRELATED BUSINESS TAX OF CERTAIN FEES AND OPTION PREMIUMS.

(a) LOAN COMMITMENT FEES.—Paragraph (1) of section 512(b) (relating to modifications) is amended by inserting ''amounts received or accrued as consideration for entering into agreements to make loans,'' before ''and annuities''.

(b) OPTION PREMIUMS.—The second sentence of section 512(b)(5) is amended—

(1) by striking ''all gains on'' and inserting ''all gains or losses recognized, in connection with the organization's investment activities, from'',

(2) by striking '', written by the organization in connection with its investment activities,'' and

(3) by inserting ''or real property and all gains or losses from the forfeiture of good-faith deposits

(that are consistent with established business practice) for the purchase, sale, or lease of real property in connection with the organization's investment activities'' before the period.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received on or after January 1, 1994.

SEC. 8149. TREATMENT OF PENSION FUND INVESTMENTS IN REAL ESTATE INVESTMENT TRUSTS.

(a) GENERAL RULE.—Subsection (h) of section 856 (relating to closely held determinations) is amended by adding at the end thereof the following new paragraph:

''(3) TREATMENT OF TRUSTS DESCRIBED IN SECTION 401(a).—

''(A) LOOK-THRU TREATMENT.—

''(i) IN GENERAL.—Except as provided in clause (ii), in determining whether the stock ownership requirement of section 542(a)(2) is met for purposes of paragraph (1)(A), any stock held by a qualified trust shall be treated as held directly by its beneficiaries in proportion to their actuarial interests in such trust and shall not be treated as held by such trust.

"(ii) CERTAIN RELATED TRUSTS NOT ELIGIBLE.—Clause (i) shall not apply to any qualified trust if one or more disqualified persons (as defined in section 4975(e)(2), without regard to subparagraphs (B) and (I) thereof) with respect to such qualified trust hold in the aggregate 5 percent or more in value of the interests in the real estate investment trust and such real estate investment trust has accumulated earnings and profits attributable to any period for which it did not qualify as a real estate investment trust.

"(B) COORDINATION WITH PERSONAL HOLDING COMPANY RULES.—If any entity qualifies as a real estate investment trust for any taxable year by reason of subparagraph (A), such entity shall not be treated as a personal holding company for such taxable year for purposes of part II of subchapter G of this chapter.

"(C) TREATMENT FOR PURPOSES OF UNRELATED BUSINESS TAX.—If any qualified trust holds more than 10 percent (by value) of the interests in any pension-held REIT at any

time during a taxable year, the trust shall be treated as having for such taxable year gross income from an unrelated trade or business in an amount which bears the same ratio to the aggregate dividends paid (or treated as paid) by the REIT to the trust for the taxable year of the REIT with or within which the taxable year of the trust ends (the 'REIT year') as—

''(i) the gross income (less direct expenses related thereto) of the REIT for the REIT year from unrelated trades or businesses (determined as if the REIT were a qualified trust), bears to

''(ii) the gross income (less direct expenses related thereto) of the REIT for the REIT year.

This subparagraph shall apply only if the ratio determined under the preceding sentence is at least 5 percent.

''(D) PENSION-HELD REIT.—The purposes of subparagraph (C)—

''(i) IN GENERAL.—A real estate investment trust is a pension-held REIT if such trust would not have qualified as a real estate investment trust but for the

provisions of this paragraph and if such trust is predominantly held by qualified trusts.

''(ii) PREDOMINANTLY HELD.—For purposes of clause (i), a real estate investment trust is predominantly held by qualified trusts if—

''(I) at least 1 qualified trust holds more than 25 percent (by value) of the interests in such real estate investment trust, or

''(II) 1 or more qualified trusts (each of whom own more than 10 percent by value of the interests in such real estate investment trust) hold in the aggregate more than 50 percent (by value) of the interests in such real estate investment trust.

''(E) QUALIFIED TRUST.—For purposes of this paragraph, the term 'qualified trust' means any trust described in section 401(a) and exempt from tax under section 501(a).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart D—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

in such a contract or such property to the taxpayer but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

PART V—LUXURY TAX

SEC. 8161. REPEAL OF LUXURY EXCISE TAXES OTHER THAN ON PASSENGER VEHICLES.

(a) IN GENERAL.—Subchapter A of chapter 31 (relating to retail excise taxes) is amended to read as follows:

"Subchapter A—Luxury Passenger Automobiles

''Sec. 4001. Imposition of tax.
''Sec. 4002. 1st retail sale; uses, etc. treated as sales; determination of price.
''Sec. 4003. Special rules.

"SEC. 4001. IMPOSITION OF TAX.

''(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

''(b) PASSENGER VEHICLE.—

''(1) IN GENERAL.—For purposes of this subchapter, the term 'passenger vehicle' means any 4-wheeled vehicle—

''(A) which is manufactured primarily for use on public streets, roads, and highways, and

''(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"(d) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed by this section on the sale of any passenger vehicle—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(e) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any calendar year after 1992, the $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

''(A) $30,000, multiplied by

''(B) the cost-of-living adjustment under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 1990' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

''(f) TERMINATION.—The tax imposed by this section shall not apply to any sale or use after December 31, 1999.

''SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS SALES; DETERMINATION OF PRICE.

''(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

''(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle, then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.

"(3) EXEMPTION FOR DEMONSTRATION USE.—Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator.

"(4) EXCEPTION FOR USE AFTER IMPORTATION OF CERTAIN VEHICLES.—Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the vehicle occurred before January 1, 1991, outside the United States.

"(5) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar

vehicles are sold at retail in the ordinary course of trade, as determined by the Secretary.

''(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of a vehicle (including any renewal or any extension of a lease or any subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

''(2) SPECIAL RULES FOR LONG-TERM LEASES.—

''(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

''(B) LONG-TERM LEASE.—For purposes of subparagraph (A), the term 'long-term lease' means any long-term lease (as defined in section 4052).

''(C) SPECIAL RULES.—In the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicle—

''(i) DETERMINATION OF PRICE.—The tax under this subchapter shall be computed on the lowest price for which the vehicle is sold by retailers in the ordinary course of trade.

''(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

''(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a long-term lease if the lessee's use of the vehicle under such lease is an exempt use (as defined in section 4003(b)) of such vehicle.

''(d) DETERMINATION OF PRICE.—

''(1) IN GENERAL.—In determining price for purposes of this subchapter—

''(A) there shall be included any charge incident to placing the passenger vehicle in condition ready for use,

''(B) there shall be excluded—

''(i) the amount of the tax imposed by this subchapter,

''(ii) if stated as a separate charge, the amount of any retail sales tax imposed

by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

''(iii) the value of any component of such passenger vehicle if—

''(I) such component is furnished by the 1st user of such passenger vehicle, and

''(II) such component has been used before such furnishing, and

''(C) the price shall be determined without regard to any trade-in.

''(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

''SEC. 4003. SPECIAL RULES.

''(a) SEPARATE PURCHASE OF VEHICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

''(1) IN GENERAL.—Except as provided in paragraph (2), if—

''(A) the owner, lessee, or operator of any passenger vehicle installs (or causes to be in-

stalled) any part or accessory on such vehicle, and

''(B) such installation is not later than the date 6 months after the date the vehicle was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

''(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

''(A) the sum of—

''(i) the price of such part or accessory and its installation,

''(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

''(iii) the price for which the passenger vehicle was sold, over

''(B) $30,000.

''(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

''(A) the part or accessory installed is a replacement part or accessory,

"(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or

"(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

The price of any part or accessory (and its installation) to which paragraph (1) does not apply by reason of this paragraph shall not be taken into account under paragraph (2)(A).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(b) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF VEHICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.

"(c) PARTS AND ACCESSORIES SOLD WITH TAXABLE PASSENGER VEHICLE.—Parts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

"(d) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(2) Subsection (d) of section 4222 is amended by striking ''4002(b), 4003(c), 4004(a)'' and inserting ''4001(d)''.

(3) The table of subchapters for chapter 31 is amended by striking the item relating to subchapter A and inserting the following:

''Subchapter A. Luxury passenger vehicles.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

SEC. 8162. EXEMPTION FROM LUXURY EXCISE TAX FOR CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHICLES FOR USE BY DISABLED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (3) of section 4004(b) (relating to separate purchase of article and parts and accessories therefor), as in effect on the day before the date of the enactment of this Act, is amended—

(1) by striking ''or'' at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C),

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

''(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or

to enter or exit the vehicle, by compensating for the effect of such disability, or'', and

(4) by inserting after subparagraph (C) the following flush sentence:

''The price of any part or accessory (and its installation) to which paragraph (1) does not apply by reason of this paragraph shall not be taken into account under paragraph (2)(A).''

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

(c) PERIOD FOR FILING CLAIMS.—If refund or credit of any overpayment of tax resulting from the application of the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to such amendments) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 8163. TAX ON DIESEL FUEL USED IN NONCOMMERCIAL BOATS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 4092(a) (defining diesel fuel) is amended by striking ''or a diesel-powered train'' and inserting '', a diesel-powered train, or a diesel-powered boat''.

(2) Paragraph (1) of section 4041(a) is amended—

(A) by striking ''diesel-powered highway vehicle'' each place it appears and inserting ''diesel-powered highway vehicle or diesel-powered boat'', and

(B) by striking ''such vehicle'' and inserting ''such vehicle or boat''.

(3) Subparagraph (B) of section 4092(b)(1) is amended by striking ''commercial and noncommercial vessels'' each place it appears and inserting ''vessels for use in an off-highway business use (as defined in section 6421(e)(2)(B))''.

(b) EXEMPTION FOR USE IN FISHERIES OR COMMERCIAL NAVIGATION.—Subparagraph (B) of section 6421(e)(2) is amended to read as follows:

''(B) USES IN BOATS.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'off-highway business use' does not include any use in a motorboat.

''(ii) FISHERIES AND WHALING.—The term 'off-highway business use' shall include any use in a vessel employed in the fisheries or in the whaling business.

''(iii) EXCEPTION FOR DIESEL FUEL.—The term 'off-highway business use' shall include the use of diesel fuel in a boat in the active conduct of—

''(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

''(II) any other trade or business, except that this subclause shall not apply to noncommercial uses described in clause (iv) during a taxable period.

''(iv) TAXABLE PERIODS FOR NONCOMMERCIAL BOATS.—In the case of any use of diesel fuel in a boat used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation, the taxable period for purposes of clause (iii)(II) shall be—

''(I) in the case so much of the tax under section 4091 as is attributable to 4.3 cents of the diesel fuel deficit reduction rate imposed under such section, any period beginning after September 30, 1993, and

''(II) in the case so much of the tax under section 4091 as is not described in subclause (I) the period beginning after January 1, 1994, and ending on December 31, 1999.

(c) RETENTION OF TAXES IN GENERAL FUND.—

(1) TAXES IMPOSED AT HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (4) of section 9503(b) (relating to transfers to Highway Trust Fund) is amended—

(A) by striking ''and'' at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting '', and'', and

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

''(C) there shall not be taken into account the taxes imposed by sections 4041 and 4091

on diesel fuel sold for use or used as fuel in a diesel-powered boat.''

(2) TAXES IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—Subsection (b) of section 9508 (relating to transfers to Leaking Underground Storage Tank Trust Fund) is amended by adding at the end thereof the following new sentence: ''For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat.''

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on October 1, 1993.

(2) SPECIAL RULE.—No tax shall be imposed before January 1, 1994, under section 4091 of the Internal Revenue Code of 1986 by reason of the amendments made by this section, other than the portion of such tax as is attributable to 4.3 cents of the diesel fuel deficit reduction rate imposed by such section.

PART VI—OTHER CHANGES

SEC. 8171. ALTERNATIVE MINIMUM TAX TREATMENT OF CONTRIBUTIONS OF APPRECIATED PROPERTY.

(a) REPEAL OF TAX PREFERENCE.—Subsection (a) of section 57 is amended by striking paragraph (6) (relating to appreciated property charitable deduction) and by redesignating paragraph (7) as paragraph (6).

(b) EFFECT ON ADJUSTED CURRENT EARNINGS.—Paragraph (4) of section 56(g) is amended by adding at the end thereof the following new subparagraph:

> ''(J) TREATMENT OF CHARITABLE CONTRIBUTIONS.—Notwithstanding subparagraphs (B) and (C), no adjustment related to the earnings and profits effects of any charitable contribution shall be made in computing adjusted current earnings.''

(c) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking ''(5) and (6)'' and inserting ''(5)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after June 30, 1992, except that in the case of any contribution of capital gain property which is not tangible personal property, such amendments shall apply only if the contribution is made after December 31, 1992.

SEC. 8172. SUBSTANTIATION REQUIREMENT FOR DEDUCTION OF CERTAIN CHARITABLE CONTRIBUTIONS.

(a) SUBSTANTIATION REQUIREMENT.—Section 170(f) (providing special rules relating to the deduction of charitable contributions and gifts) is amended by adding at the end the following new paragraph:

''(8) SUBSTANTIATION REQUIREMENT FOR CERTAIN CONTRIBUTIONS.—

''(A) GENERAL RULE.—No deduction shall be allowed under subsection (a) for any contribution of $250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

''(B) CONTENT OF ACKNOWLEDGMENT.—

''(i) IN GENERAL.—An acknowledgment meets the requirements of this subparagraph if it provides information sufficient to substantiate the amount of the deductible contribution. Nothing in this clause shall be construed as requiring the donee organization to estimate the value of a noncash contribution.

"(ii) QUID PRO QUO CONTRIBUTIONS.—If the contribution was made by means of a payment part of which constituted consideration for goods or services provided by the donee organization, the acknowledgment must provide a good faith estimate of the value of such goods or services. The preceding sentence shall not apply to any payment made to an organization, organized exclusively for religious purposes, in return for which the taxpayer receives solely an intangible religious benefit that generally is not sold in a commercial transaction outside the donative context.

"(C) CONTEMPORANEOUS.—For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of—

"(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or

"(ii) the due date (including extensions) for filing such return.

"(D) SUBSTANTIATION NOT REQUIRED FOR CONTRIBUTIONS REPORTED BY THE DONEE ORGANIZATION.—Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases."

(b) EFFECTIVE DATE.—The provisions of this section shall apply to contributions made on or after January 1, 1994.

SEC. 8173. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

(a) DISCLOSURE REQUIREMENT.—Subchapter B of chapter 61 (relating to information and returns) is amended by redesignating section 6115 as section 6116 and by inserting after section 6114 the following new section:

"SEC. 6115. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

''(a) DISCLOSURE REQUIREMENT.—If an organization described in section 170(c) (other than paragraph (1) thereof) receives a quid pro quo contribution in excess of $75, the organization shall, in connection with the solicitation or receipt of the contribution, provide a written statement which—

''(1) informs the donor that the amount of the contribution that is deductible for Federal income tax purposes is limited to the excess of the amount of any money and the value of any property other than money contributed by the donor over the value of the goods or services provided by the organization, and

''(2) provides the donor with a good faith estimate of the value of such goods or services.

''(b) QUID PRO QUO CONTRIBUTION.—For purposes of this section, the term 'quid pro quo contribution' means a payment made partly as a contribution and partly in consideration for goods or services provided to the payor by the donee organization. A quid pro quo contribution does not include any payment made to an organization, organized exclusively for religious purposes, in return for which the taxpayer receives solely an intangible religious

benefit that generally is not sold in a commercial transaction outside the donative context.''

(b) PENALTY FOR FAILURE TO DISCLOSE.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6713 the following new section:

''SEC. 6714. FAILURE TO MEET DISCLOSURE REQUIREMENTS APPLICABLE TO QUID PRO QUO CONTRIBUTIONS.

''(a) IMPOSITION OF PENALTY.—If an organization fails to meet the disclosure requirement of section 6115 with respect to a quid pro quo contribution, such organization shall pay a penalty of $10 for each contribution in respect of which the organization fails to make the required disclosure, except that the total penalty imposed by this subsection with respect to a particular fundraising event or mailing shall not exceed $5,000.

''(b) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''

(c) CLERICAL AMENDMENTS.—

(1) The table for subchapter B of chapter 61 is amended by striking the item relating to section 6115 and inserting the following new items:

''Sec. 6115. Disclosure related to quid pro quo contributions.
''Sec. 6116. Cross reference.''

(2) The table for part I of subchapter B of chapter 68 is amended by inserting after the item for section 6713 the following new item:

''Sec. 6714. Failure to meet disclosure requirements applicable to quid pro quo contributions.''

(d) EFFECTIVE DATE.—The provisions of this section shall apply to quid pro quo contributions made on or after January 1, 1994.

SEC. 8174. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT MADE PERMANENT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking ''with respect to benefits received before October 1, 1992''.

SEC. 8175. TEMPORARY EXTENSION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—

(1) EXTENSION.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking ''June 30, 1992'' and inserting ''December 31, 1993''.

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is hereby repealed.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after June 30, 1992.

(b) DETERMINATION OF ELIGIBILITY FOR EMPLOYER-SPONSORED HEALTH PLAN.—

(1) IN GENERAL.—Paragraph (2)(B) of section 162(l) is amended to read as follows:

''(B) OTHER COVERAGE.—Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer.''

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1992.

Subtitle B—Revenue Increases

PART I—PROVISIONS AFFECTING INDIVIDUALS

Subpart A—Rate Increases

SEC. 8201. INCREASE IN TOP MARGINAL RATE UNDER SECTION 1.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

''(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

''(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

''(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $36,900	15% of taxable income.
Over $36,900 but not over $89,150.	$5,535, plus 28% of the excess over $36,900.
Over $89,150 but not over $140,000.	$20,165, plus 31% of the excess over $89,150.
Over $140,000	$35,928.50, plus 36% of the excess over $140,000.

''(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $29,600	15% of taxable income.
Over $29,600 but not over $76,400.	$4,440, plus 28% of the excess over $29,600.
Over $76,400 but not over $127,500.	$17,544, plus 31% of the excess over $76,400.
Over $127,500	$33,385, plus 36% of the excess over $127,500.

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:

"If taxable income is:	The tax is:
Not over $22,100	15% of taxable income.
Over $22,100 but not over $53,500.	$3,315, plus 28% of the excess over $22,100.
Over $53,500 but not over $115,000.	$12,107, plus 31% of the excess over $53,500.
Over $115,000	$31,172, plus 36% of the excess over $115,000.

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:

"If taxable income is:	The tax is:
Not over $18,450	15% of taxable income.
Over $18,450 but not over $44,575.	$2,767.50, plus 28% of the excess over $18,450.

"If taxable income is:	The tax is:
Over $44,575 but not over $70,000.	$10,082.50, plus 31% of the excess over $44,575.
Over $70,000	$17,964.25, plus 36% of the excess over $70,000.

''(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

''(1) every estate, and

''(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $1,500	15% of taxable income.
Over $1,500 but not over $3,500 ..	$225, plus 28% of the excess over $1,500.
Over $3,500 but not over $5,500 ..	$785, plus 31% of the excess over $3,500.
Over $5,500	$1,405, plus 36% of the excess over $5,500.''

(b) CONFORMING AMENDMENTS.—

(1) Section 531 is amended by striking ''28 percent'' and inserting ''36 percent''.

(2) Section 541 is amended by striking ''28 percent'' and inserting ''36 percent''.

(3)(A) Subsection (f) of section 1 is amended—

(i) by striking ''1990'' in paragraph (1) and inserting''1993'', and

(ii) by striking ''1989'' in paragraph (3)(B) and inserting ''1992''.

(B) Subsection (f) of section 1 is amended by adding at the end thereof the following new paragraph:

''(7) SPECIAL RULE FOR CERTAIN BRACKETS.—

''(A) CALENDAR YEAR 1994.—In prescribing the tables under paragraph (1) which apply with respect to taxable years beginning in calendar year 1994, the Secretary shall make no adjustment to the dollar amounts at which the 36 percent rate bracket begins or at which the 39.6 percent rate begins under any table contained in subsection (a), (b), (c), (d), or (e).

''(B) LATER CALENDAR YEARS.—In prescribing tables under paragraph (1) which apply with respect to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts referred to in subparagraph (A) shall be determined under paragraph (3) by substituting '1993' for '1992'.''

(C) Subparagraph (C) of section 41(e)(5) is amended by striking ''1989'' each place it appears and inserting ''1992''.

(D) Subparagraph (B) of section 63(c)(4) is amended by striking ''1989'' and inserting ''1992''.

(E) Subparagraph (B) of section 68(b)(2) is amended by striking ''1989'' and inserting ''1992''.

(F) Subparagraph (B) of section 132(f)(6) is amended by striking ‘‘, determined by substituting’’ and all that follows down through the period at the end thereof and inserting a period.

(G) Subparagraphs (A)(ii) and (B)(ii) of section 151(d)(4) are each amended by striking ‘‘1989’’ and inserting ‘‘1992’’.

(H) Clause (ii) of section 513(h)(2)(C) is amended by striking ‘‘1989’’ and inserting ‘‘1992’’.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 8202. SURTAX ON HIGH-INCOME TAXPAYERS.

(a) GENERAL RULE.—

(1) Subsection (a) of section 1 (as amended by section 8201) is amended by striking the last item in the table contained therein and inserting the following:

‘‘Over $140,000 but not over $250,000.	$35,928.50, plus 36% of the excess over $140,000.
Over $250,000	$75,528.50, plus 39.6% of the excess over $250,000.’’

(2) Subsection (b) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

‘‘Over $127,500 but not over $250,000.	$33,385, plus 36% of the excess over $127,500.
Over $250,000	$77,485, plus 39.6% of the excess over $250,000.’’

(3) Subsection (c) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

''Over $115,000 but not over $250,000.	$31,172, plus 36% of the excess over $115,000.
Over $250,000	$79,772, plus 39.6% of the excess over $250,000.''

(4) Subsection (d) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

''Over $70,000 but not over $125,000.	$17,964.25, plus 36% of the excess over $70,000.
Over $125,000	$37,764.25, plus 39.6% of the excess over $125,000.''

(5) Subsection (e) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

''Over $5,500 but not over $7,500	$1,405, plus 36% of the excess over $5,500.
Over $7,500	$2,125, plus 39.6% of the excess over $7,500.''

(b) SURTAX ON NET CAPITAL GAINS.—Section 1(h) (relating to maximum capital gains rate) is amended by striking the period at the end of paragraph (2) and inserting '', plus'', and by adding at the end the following new paragraph:

''(3) a tax of 2.8 percent of the lesser of—

''(A) the net capital gain, or

''(B) the amount of taxable income in excess of the dollar amount at which the last rate bracket begins for such taxable year in the

table contained in subsection (a), (b), (c), (d), or (e), whichever is applicable.''

(c) TECHNICAL AMENDMENT.—Sections 531 and 541 (as amended by section 8201) are each amended by striking ''36 percent'' and inserting ''39.6 percent''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 8203. MODIFICATIONS TO ALTERNATIVE MINIMUM TAX RATES AND EXEMPTION AMOUNTS.

(a) INCREASE IN RATE.—Paragraph (1) of section 55(b) (defining tentative minimum tax) is amended to read as follows:

''(1) AMOUNT OF TENTATIVE TAX.—

''(A) NONCORPORATE TAXPAYERS.—

''(i) IN GENERAL.—In the case of a taxpayer other than a corporation, the tentative minimum tax for the taxable year is the sum of—

''(I) 26 percent of so much of the taxable excess as does not exceed $175,000, plus

''(II) 28 percent of so much of the taxable excess as exceeds $175,000.

The amount determined under the preceding sentence shall be reduced by the alternative minimum tax foreign tax credit for the taxable year.

''(ii) TAXABLE EXCESS.—For purposes of clause (i), the term 'taxable excess' means so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

''(iii) MARRIED INDIVIDUAL FILING SEPARATE RETURN.—In the case of a married individual filing a separate return, clause (i) shall be applied by substituting '$87,500' for '$175,000' each place it appears. For purposes of the preceding sentence, marital status shall be determined under section 7703.

''(B) CORPORATIONS.—In the case of a corporation, the tentative minimum tax for the taxable year is—

''(i) 20 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by

"(ii) the alternative minimum tax foreign tax credit for the taxable year."

(b) INCREASE IN EXEMPTION AMOUNTS.—Paragraph (1) of section 55(d) (defining exemption amount) is amended—

(1) by striking "$40,000" in subparagraph (A) and inserting "$45,000",

(2) by striking "$30,000" in subparagraph (B) and inserting "$33,750", and

(3) by striking "$20,000" in subparagraph (C) and inserting "$22,500".

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 55(d)(3) is amended by striking "$155,000 or (ii) $20,000" and inserting "$165,000 or (ii) $22,500".

(2)(A) Subparagraph (A) of section 897(a)(2) is amended by striking "the amount determined under section 55(b)(1)(A) shall not be less than 21 percent of" and inserting "the taxable excess for purposes of section 55(b)(1)(A) shall not be less than".

(B) The heading for paragraph (2) of section 897(a) is amended by striking "21-PERCENT".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 8203A. RATE INCREASES NOT TO TAKE EFFECT UNTIL JULY 1, 1993.

(a) IN GENERAL.—Section 1 (relating to tax imposed) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULES FOR TAXABLE YEARS BEGINNING IN 1993.—

''(1) IN GENERAL.—In the case of taxable years beginning in calendar year 1993, each of the tables contained in subsections (a), (b), (c), (d), and (e) shall be applied—

''(A) by substituting '33.5 percent' for '36 percent',

''(B) by substituting '35.3 percent' for '39.6 percent', and

''(C) by substituting for the dollar amount of tax in the last rate bracket the dollar amount determined under the table contained in paragraph (2).

''(2) DOLLAR AMOUNT OF TAX.—The dollar amount substituted under paragraph (1) shall be determined 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.''

(b) CONFORMING AMENDMENTS.—

(1) Sections 531 and 541 (as amended by section 8202) are each amended by inserting ''(35.3 percent in the case of taxable years beginning in calendar year 1993)'' after ''39.6 percent''.

(2) Section 1(h)(3), as added by section 8202(b), is amended by inserting ''(1.4 percent in the case of taxable years beginning in calendar year 1993)'' after ''2.8 percent''.

(3) Paragraph (1) of section 55(b), as amended by section 8203, is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULES FOR 1993.—In the case of any taxable year beginning in the calendar year 1993, subparagraph (A)(i) shall be applied by substituting—

''(i) '25 percent' for '26 percent' in subclause (I), and

''(ii) '26 percent' for '28 percent' in subclause (II).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 8204. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS MADE PERMANENT.

Subsection (f) of section 68 (relating to overall limitation on itemized deductions) is hereby repealed.

SEC. 8205. PHASEOUT OF PERSONAL EXEMPTION OF HIGH-INCOME TAXPAYERS MADE PERMANENT.

Section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking subparagraph (E).

SEC. 8206. PROVISIONS TO PREVENT CONVERSION OF ORDINARY INCOME TO CAPITAL GAIN.

(a) INTEREST EMBEDDED IN FINANCIAL TRANSACTIONS.—

(1) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end the following new section:

"SEC. 1258. RECHARACTERIZATION OF GAIN FROM CERTAIN FINANCIAL TRANSACTIONS.

''(a) GENERAL RULE.—In the case of any gain—

''(1) which (but for this section) would be treated as gain from the sale or exchange of a capital asset, and

''(2) which is recognized on the disposition or other termination of any position which was held as part of a conversion transaction,

such gain (to the extent such gain does not exceed the applicable imputed income amount) shall be treated as ordinary income.

''(b) APPLICABLE IMPUTED INCOME AMOUNT.—For purposes of subsection (a), the term 'applicable imputed income amount' means, with respect to any disposition or other termination referred to in subsection (a), an amount equal to—

''(1) the amount of interest which would have accrued on the taxpayer's net investment in the conversion transaction for the period ending on the date of such disposition or other termination (or, if earlier, the date on which the requirements of subsection (c) ceased to be satisfied) at a rate equal to 120 percent of the applicable rate, reduced by

''(2) the amount treated as ordinary income under subsection (a) with respect to any prior disposition or other termination of a position which was held as a part of such transaction.

The Secretary shall by regulations provide for such reductions in the applicable imputed income amount as may be appropriate by reason of amounts capitalized under section 263(g), ordinary income received, or otherwise.

''(c) CONVERSION TRANSACTION.—For purposes of this section, the term 'conversion transaction' means any transaction—

''(1) substantially all of the taxpayer's expected return from which is attributable to the time value of the taxpayer's net investment in such transaction, and

''(2) which is—

''(A) the holding of any property (whether or not actively traded), and the entering into a contract to sell such property (or substantially identical property) at a price determined in accordance with such contract, but only if such property was acquired and such contract was entered into on a substantially contemporaneous basis,

''(B) an applicable straddle,

''(C) any other transaction which is marketed or sold as producing capital gains and as a transaction described in paragraph (1), or

"(D) any other transaction specified in regulations prescribed by the Secretary.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE STRADDLE.—The term 'applicable straddle' means any straddle (within the meaning of section 1092(c)); except that the term 'personal property' shall include stock.

"(2) APPLICABLE RATE.—The term 'applicable rate' means—

"(A) the applicable Federal rate determined under section 1274(d) (compounded semiannually) as if the conversion transaction were a debt instrument, or

"(B) if the term of the conversion transaction is indefinite, the Federal short-term rates in effect under section 6621(b) during the period of the conversion transaction (compounded daily).

"(3) TREATMENT OF BUILT-IN LOSSES.—

"(A) IN GENERAL.—If any position with a built-in loss becomes part of a conversion transaction—

"(i) for purposes of applying this subtitle to such position for periods after such

position becomes part of such transaction, such position shall be taken into account at its fair market value as of the time it became part of such transaction, except that

''(ii) upon the disposition or other termination of such position in a transaction in which gain or loss is recognized, such built-in loss shall be recognized and shall have a character determined without regard to this section.

''(B) BUILT-IN LOSS.—For purposes of subparagraph (A), the term 'built-in loss' means the loss (if any) which would have been realized if the position had been disposed of or otherwise terminated at its fair market value as of the time such position became part of such transaction.

''(4) POSITION TAKEN INTO ACCOUNT AT FAIR MARKET VALUE.—In determining the taxpayer's net investment in any conversion transaction, there shall be included the fair market value of any position which becomes part of such transaction (determined as of the time such position became part of such transaction).

"(5) SPECIAL RULE FOR OPTIONS DEALERS AND COMMODITIES TRADERS.—

"(A) IN GENERAL.—Subsection (a) shall not apply to transactions —

"(i) of an options dealer in the normal course of the dealer's trade or business of dealing with options, or

"(ii) of a commodities trader in the normal course of the trader's trade or business of trading section 1256 contracts.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) OPTIONS DEALER.—The term 'options dealer' has the meaning given such term by section 1256(g)(8).

"(ii) COMMODITIES TRADER.— The term 'commodities trader' means any person who is a member (or, to the extent provided in regulations, is entitled to trade as a member) of a domestic board of trade which is designated as a contract market by the Commodity Futures Trading Commission.

"(C) LIMITED PARTNERS AND LIMITED ENTREPRENEURS.—In the case of any gain

from a transaction recognized by an entity which is allocable to a limited partner or limited entrepreneur (within the meaning of section 464(e)(2)), subparagraph (A) shall not apply if—

''(i) substantially all of the limited partner's (or limited entrepreneur's) expected return from the entity is attributable to the time value of the partner's (or entrepreneur's) net investment in such entity,

''(ii) the transaction (or the interest in the entity) was marketed or sold as producing capital gains treatment and as a transaction described in subsection (c)(1), or

''(iii) the transaction (or the interest in the entity) is a transaction (or interest) specified in regulations prescribed by the Secretary.''

(2) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

''Sec. 1258. Recharacterization of gain from certain financial transactions.''

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to conversion transactions entered into after April 30, 1993.

(b) REPEAL OF CERTAIN EXCEPTIONS TO MARKET DISCOUNT RULES.—

(1) MARKET DISCOUNT BONDS ISSUED ON OR BEFORE JULY 18, 1984.—The following provisions are hereby repealed:

(A) Section 1276(e).

(B) Section 1277(d).

(2) TAX-EXEMPT OBLIGATIONS.—

(A) IN GENERAL.—Paragraph (1) of section 1278(a) (defining market discount bond) is amended—

(i) by striking clause (ii) of subparagraph (B) and redesignating subclauses (iii) and (iv) of such subparagraph as clauses (ii) and (iii), respectively,

(ii) by redesignating subparagraph (C) as subparagraph (D), and

(iii) by inserting after subparagraph (B) the following new subparagraph:

''(C) SECTION 1277 NOT APPLICABLE TO TAX-EXEMPT OBLIGATIONS.—For purposes of section 1277, the term 'market discount bond'

shall not include any tax-exempt obligation (as defined in section 1275(a)(3)).''

(B) CONFORMING AMENDMENT.—Sections 1276(a)(4) and 1278(b)(1) are each amended by striking ''sections 871(a)'' and inserting ''sections 103, 871(a),''.

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations purchased (within the meaning of section 1272(d)(1) of the Internal Revenue Code of 1986) after April 30, 1993.

(c) TREATMENT OF STRIPPED PREFERRED STOCK.—

(1) IN GENERAL.—Section 305 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) TREATMENT OF PURCHASER OF STRIPPED PREFERRED STOCK.—

''(1) IN GENERAL.—If any person purchases after April 30, 1993, any stripped preferred stock, then such person, while holding such stock, shall include in gross income amounts equal to the amounts which would have been so includible if such stripped preferred stock were a bond issued on the purchase

date and having original issue discount equal to the excess, if any, of—

"(A) the redemption price for such stock, over

"(B) the price at which such person purchased such stock.

The preceding sentence shall also apply in the case of any person whose basis in such stock is determined by reference to the basis in the hands of such purchaser.

"(2) BASIS ADJUSTMENTS.—Appropriate adjustments to basis shall be made for amounts includible in gross income under paragraph (1).

"(3) TAX TREATMENT OF PERSON STRIPPING STOCK.—If any person strips the rights to 1 or more dividends from any stock described in paragraph (5)(B) and after April 30, 1993, disposes of such dividend rights, for purposes of paragraph (1), such person shall be treated as having purchased the stripped preferred stock on the date of such disposition for a purchase price equal to such person's adjusted basis in such stripped preferred stock.

"(4) AMOUNTS TREATED AS ORDINARY INCOME.—Any amount included in gross income under paragraph (1) shall be treated as ordinary income.

''(5) STRIPPED PREFERRED STOCK.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'stripped preferred stock' means any stock described in subparagraph (B) if there has been a separation in ownership between such stock and any dividend on such stock which has not become payable.

''(B) DESCRIPTION OF STOCK.—Stock is described in this subsection if such stock—

''(i) is limited and preferred as to dividends and does not participate in corporate growth to any significant extent, and

''(ii) has a fixed redemption price.

''(6) PURCHASE.—For purposes of this subsection, the term 'purchase' means—

''(A) any acquisition of stock, where

''(B) the basis of such stock is not determined in whole or in part by the reference to the adjusted basis of such stock in the hands of the person from whom acquired.''

(2) COORDINATION WITH SECTION 167(e).—Paragraph (2) of section 167(e) is amended to read as follows:

"(2) COORDINATION WITH OTHER PROVISIONS.—

"(A) SECTION 273.—This subsection shall not apply to any term interest to which section 273 applies.

"(B) SECTION 305(e).—This subsection shall not apply to the holder of the dividend rights which were separated from any stripped preferred stock to which section 305(e)(1) applies."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 30, 1993.

(d) TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—

(1) IN GENERAL.—Subparagraph (B) of section 163(d)(4) (defining investment income) is amended to read as follows:

"(B) INVESTMENT INCOME.—The term 'investment income' means the sum of—

"(i) gross income from property held for investment (other than any gain taken into account under clause (ii)(I)),

"(ii) the excess (if any) of—

''(I) the net gain attributable to the disposition of property held for investment, over

''(II) the net capital gain determined by only taking into account gains and losses from dispositions of property held for investment, plus

''(iii) so much of the net capital gain referred to in clause (ii)(II) (or, if lesser, the net gain referred to in clause (ii)(I)) as the taxpayer elects to take into account under this clause.''

(2) COORDINATION WITH SPECIAL CAPITAL GAINS RATE.—Subsection (h) of section 1, as amended by section 8202(b), is amended by adding at the end the following new sentence:

''For purposes of the preceding sentence, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii).''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(e) TREATMENT OF CERTAIN APPRECIATED INVENTORY.—

(1) IN GENERAL.—Paragraph (1) of section 751(d) is amended to read as follows:

''(1) SUBSTANTIAL APPRECIATION.—

''(A) IN GENERAL.—Inventory items of the partnership shall be considered to have appreciated substantially in value if their fair market value exceeds 120 percent of the adjusted basis to the partnership of such property.

''(B) CERTAIN PROPERTY EXCLUDED.—For purposes of subparagraph (A), there shall be excluded any inventory property if a principal purpose for acquiring such property was to avoid the provisions of this section relating to inventory items.''

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales, exchanges, and distributions after April 30, 1993.

Subpart B—Other Provisions

SEC. 8207. REPEAL OF LIMITATION ON AMOUNT OF WAGES SUBJECT TO HEALTH INSURANCE EMPLOYMENT TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) Paragraph (1) of section 3121(a) (defining wages) is amended—

(A) by inserting ''in the case of the taxes imposed by sections 3101(a) and 3111(a)'' after ''(1)'',

(B) by striking ''applicable contribution base (as determined under subsection (x))'' each place it appears and inserting ''contribution and benefit base (as determined under section 230 of the Social Security Act)'', and

(C) by striking ''such applicable contribution base'' and inserting ''such contribution and benefit base''.

(2) Section 3121 is amended by striking subsection (x).

(b) SELF-EMPLOYMENT TAX.—

(1) Subsection (b) of section 1402 is amended—

(A) by striking ''that part of the net'' in paragraph (1) and inserting ''in the case of the tax imposed by section 1401(a), that part of the net'',

(B) by striking ''applicable contribution base (as determined under subsection (k))'' in paragraph (1) and inserting ''contribution and

benefit base (as determined under section 230 of the Social Security Act)'',

(C) by inserting ''and'' after ''section 3121(b),'', and

(D) by striking ''and (C) includes'' and all that follows through ''3111(b)''.

(2) Section 1402 is amended by striking subsection (k).

(c) RAILROAD RETIREMENT TAX.—

(1) Subparagraph (A) of section 3231(e)(2) is amended by adding at the end thereof the following new clause:

''(iii) HOSPITAL INSURANCE TAXES.—Clause (i) shall not apply to—

''(I) so much of the rate applicable under section 3201(a) or 3221(a) as does not exceed the rate of tax in effect under section 3101(b), and

''(II) so much of the rate applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b).''

(2) Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—Except as provided in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year."

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6413(c) is amended by striking "section 3101 or section 3201" and inserting "section 3101(a) or section 3201(a) (to the extent of so much of the rate applicable under section 3201(a) as does not exceed the rate of tax in effect under section 3101(a))".

(2) Subparagraphs (B) and (C) of section 6413(c)(2) are each amended by striking "section 3101" each place it appears and inserting "section 3101(a)".

(3) Subsection (c) of section 6413 is amended by striking paragraph (3).

(4) Sections 3122 and 3125 are each amended by striking "applicable contribution base limitation" and inserting "contribution and benefit base limitation".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to 1994 and later calendar years.

SEC. 8208. TOP ESTATE AND GIFT TAX RATES MADE PERMANENT.

(a) GENERAL RULE.—The table contained in paragraph (1) of section 2001(c) is amended by striking the last item and inserting the following new items:

''Over $2,500,000 but not over $3,000,000.	$1,025,800, plus 53% of the excess over $2,500,000.
Over $3,000,000	$1,290,800, plus 55% of the excess over $3,000,000.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 2001 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Paragraph (2) of section 2001(c), as redesignated by paragraph (1), is amended by striking ''($18,340,000 in the case of decedents dying, and gifts made, after 1992)''.

(3) The last sentence of section 2101(b) is amended by striking ''section 2001(c)(3)'' and inserting ''section 2001(c)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of decedents dying, and gifts made, after December 31, 1992.

SEC. 8209. REDUCTION IN DEDUCTIBLE PORTION OF BUSINESS MEALS AND ENTERTAINMENT.

(a) GENERAL RULE.—Paragraph (1) of section 274(n) (relating to only 80 percent of meal and entertain-

ment expenses allowed as deduction) is amended by striking ''80 percent'' and inserting ''50 percent''.

(b) SUBSTANTIATION REQUIREMENT.—In the case of taxable years beginning after December 31, 1993, Treasury Regulation § 1.274–5T(c)(2)(iii)(B) shall be applied by substituting ''$20'' for ''$25''.

(c) CONFORMING AMENDMENT.—The subsection heading for section 274(n) is amended by striking ''80'' and inserting ''50''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 8210. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) IN GENERAL.—Subsection (a) of section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended by adding at the end thereof the following new paragraph:

''(3) DENIAL OF DEDUCTION FOR CLUB DUES.—Notwithstanding the preceding provisions of this subsection, no deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose.''

(b) EXCEPTION FOR EMPLOYEE RECREATIONAL EXPENSES NOT TO APPLY.—Paragraph (4) of section 274(e) is amended by adding at the end thereof the following: ''This paragraph shall not apply for purposes of subsection (a)(3).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 8211. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION.—

''(1) IN GENERAL.—In the case of any publicly held corporation, no deduction shall be allowed under this chapter for applicable employee remuneration with respect to any covered employee to the extent that the amount of such remuneration for the taxable year with respect to such employee exceeds $1,000,000.

"(2) PUBLICLY HELD CORPORATION.—For purposes of this subsection, the term 'publicly held corporation' means any corporation issuing any class of common equity securities required to be registered under section 12 of the Securities Exchange Act of 1934.

"(3) COVERED EMPLOYEE.—For purposes of this subsection, the term 'covered employee' means any employee of the taxpayer if—

"(A) as of the close of the taxable year, such employee is the chief executive officer of the taxpayer or is an individual acting in such a capacity, or

"(B) the total compensation for the taxable year of such employee is required to be reported to shareholders under the Securities Exchange Act of 1934 by reason of such employee being among the 4 highest compensated officers for the taxable year (other than the chief executive officer).

"(4) APPLICABLE EMPLOYEE REMUNERATION.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'applicable employee remuneration' means, with respect to

any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

''(B) EXCEPTION FOR REMUNERATION PAYABLE ON COMMISSION BASIS.—The term 'applicable employee remuneration' shall not include any remuneration payable on a commission basis solely on account of income generated directly by the individual performance of the individual to whom such remuneration is payable.

''(C) OTHER PERFORMANCE-BASED COMPENSATION.—The term 'applicable employee remuneration' shall not include any remuneration payable solely on account of the attainment of one or more performance goals, but only if—

''(i) the performance goals are determined by a compensation committee of the board of directors of the taxpayer which is comprised solely of 2 or more outside directors,

''(ii) the material terms under which the remuneration is to be paid, including

the performance goals, are disclosed to shareholders and approved by a majority of the vote in a separate shareholder vote before the payment of such remuneration, and

''(iii) before any payment of such remuneration, the compensation committee referred to in clause (i) certifies that the performance goals and any other material terms were in fact satisfied.

''(D) EXCEPTION FOR EXISTING BINDING CONTRACTS.—The term 'applicable employee remuneration' shall not include any remuneration payable under a written binding contract which was in effect on February 17, 1993, and which was not modified thereafter in any material respect before such remuneration is paid.

''(E) REMUNERATION.—For purposes of this paragraph, the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

''(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof, and

"(ii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under this chapter.

For purposes of clause (i), section 3121(a)(5) shall be applied without regard to section 3121(v)(1).

"(F) COORDINATION WITH DISALLOWED GOLDEN PARACHUTE PAYMENTS.—The dollar limitation contained in paragraph (1) shall be reduced (but not below zero) by the amount (if any) which would have been included in the applicable employee remuneration of the covered employee for the taxable year but for being disallowed under section 280G."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts which would otherwise be deductible for taxable years beginning on or after January 1, 1994.

SEC. 8212. REDUCTION IN COMPENSATION TAKEN INTO ACCOUNT IN DETERMINING CONTRIBUTIONS AND BENEFITS UNDER QUALIFIED RETIREMENT PLANS.

(a) QUALIFICATION REQUIREMENT.—

(1) IN GENERAL.—Section 401(a)(17) is amended—

(A) by striking ''$200,000'' in the first sentence and inserting ''$150,000'',

(B) by striking the second sentence, and

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

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—If, for any calendar year after 1994, the excess (if any) of—

''(I) $150,000, increased by the cost-of-living adjustment for the calendar year, over

''(II) the dollar amount in effect under subparagraph (A) for taxable years beginning in the calendar year, is equal to or greater than $10,000, then the $150,000 amount under subparagraph (A) (as previously adjusted under this subparagraph) for any taxable year beginning

in any subsequent calendar year shall be increased by $10,000.

''(ii) COST-OF-LIVING ADJUSTMENT.—The cost-of-living adjustment for any calendar year shall be the adjustment made under section 415(d) for such calendar year, except that the base period for purposes of section 415(d)(1)(A) shall be the calendar quarter beginning October 1, 1993.''

(2) CONFORMING AMENDMENT.—Section 401(a)(17) is amended by striking ''(17) A trust'' and inserting:

''(17) COMPENSATION LIMIT.—

''(A) IN GENERAL.—A trust''.

(b) SIMPLIFIED EMPLOYEE PENSIONS.—

(1) IN GENERAL.—Paragraphs (3)(C) and (6)(D)(ii) of section 408(k) are each amended by striking ''$200,000'' and inserting ''$150,000''.

(2) COST-OF-LIVING.—Paragraph (8) of section 408(k) is amended to read as follows:

''(8) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $300 amount in paragraph (2)(C) at the same time and in the same manner as under section 415(d) and shall adjust the $150,000

amount in paragraphs (3)(C) and (6)(D)(ii) at the same time, and by the same amount, as the adjustment under section 401(a)(17)(B).''

(c) OTHER RELATED PROVISIONS.—

(1) IN GENERAL.—Sections 404(l) and 505(b)(7) are each amended—

(A) by striking ''$200,000'' in the first sentence and inserting ''$150,000'', and

(B) by striking the second sentence and inserting ''The Secretary shall adjust the $150,000 amount at the same time, and by the same amount, as the adjustment under section 401(a)(17)(B).''

(2) CONFORMING AMENDMENT.—The heading for section 505(b)(7) is amended by striking ''$200,000''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to benefits accruing in plan years beginning after December 31, 1993.

(2) EXCEPTION FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more em-

ployers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to contributions or benefits pursuant to such agreements for plan years beginning before the earlier of—

(A) the latest of—

(i) January 1, 1994,

(ii) the date on which the last of such collective bargaining agreements terminates (without regard to any extension, amendment, or modification of such agreements on or after such date of enactment), or

(iii) in the case of a plan maintained pursuant to collective bargaining under the Railway Labor Act, the date of execution of an extension or replacement of the last of such collective bargaining agreements in effect on such date of enactment, or

(B) January 1, 1997.

(3) TRANSITION RULE FOR STATE AND LOCAL PLANS.—

(A) IN GENERAL.—In the case of an eligible participant in a governmental plan (within the meaning of section 414(d) of the Internal

Revenue Code of 1986), the dollar limitation under section 401(a)(17) of such Code shall not apply to the extent the amount of compensation which is allowed to be taken into account under the plan would be reduced below the amount which was allowed to be taken into account under the plan as in effect on July 1, 1993.

(B) ELIGIBLE PARTICIPANT.—For purposes of subparagraph (A), an eligible participant is an individual who first became a participant in the plan during a plan year beginning before the 1st plan year beginning after the earlier of—

(i) the plan year in which the plan is amended to reflect the amendments made by this section, or

(ii) December 31, 1995.

(C) PLAN MUST BE AMENDED TO INCORPORATE LIMITS.—This paragraph shall not apply to any eligible participant of a plan unless the plan is amended so that the plan incorporates by reference the dollar limitation under section 401(a)(17) of the Internal Revenue Code of 1986, effective with respect to noneligible participants for plan years beginning

after December 31, 1995 (or earlier if the plan amendment so provides).

SEC. 8213. MODIFICATION TO DEDUCTION FOR CERTAIN MOVING EXPENSES.

(a) DOLLAR LIMITATION.—

(1) IN GENERAL.—Paragraph (3) of section 217(b) is amended by striking subparagraphs (A) and (B) and inserting the following:

''(A) DOLLAR LIMIT.—

''(i) IN GENERAL.—The aggregate amount allowable as a deduction under subsection (a) in connection with a commencement of work shall not exceed $10,000, of which the aggregate amount which is attributable to expenses described in subparagraph (C) or (D) of paragraph (1) shall not exceed $1,500.

''(ii) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning in calendar years after 1994, the $10,000 amount under clause (i) shall be increased by an amount equal to the product of such dollar amount and the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year

begins, except that section 1(f)(3)(B) shall be applied by substituting '1993' for '1992'. Any amount determined under this clause which is not a multiple of $50 shall be rounded to the next lowest multiple of $50.

''(B) HUSBAND AND WIFE.—If a husband and wife both commence work at a new principal place of work within the same general location, subparagraph (A) shall be applied as if there was only 1 commencement of work. In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting '$5,000' for '$10,000' and '$750' for '$1,500'.''

(2) FOREIGN MOVES.—Paragraph (1) of section 217(h) is amended by striking subparagraphs (B) and (C) and inserting:

''(B) subsection (b)(2)(A) shall be applied by substituting '$4,500' for '$1,500', and

''(C) subsection (b)(2)(B) shall be applied as if the last sentence of such subsection read as follows: 'In the case of a husband and wife filing separate returns, subparagraph (A) (as

modified by subsection (h)(1)(B)) shall be applied by substituting ''$2,250'' for ''$4,500''.'.''

(b) REPEAL OF DEDUCTION FOR QUALIFIED RESIDENCE SALE, ETC., EXPENSES.—

(1) IN GENERAL.—Paragraph (1) of section 217(b) (defining moving expenses) is amended by inserting ''or'' at the end of subparagraph (C), by striking '', or'' at the end of subparagraph (D) and inserting a period, and by striking subparagraph (E).

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 217, as amended by subsection (a), is amended by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(B) Section 217 is amended by striking subsection (e).

(c) DEDUCTION DISALLOWED FOR MEAL EXPENSES.—Paragraph (1) of section 217(b) is amended—

(1) by striking ''meals and lodging'' in subparagraphs (B), (C) and (D) and inserting ''lodging'', and

(2) by adding at the end thereof the following new sentence:

''Such term shall not include any expenses for meals.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses incurred after December 31, 1993.

SEC. 8214. SIMPLIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR BASED ON LAST YEAR'S TAX.

(a) IN GENERAL.—Paragraph (1) of section 6654(d) (relating to amount of required estimated tax installments) is amended by striking subparagraphs (C), (D), (E), and (F) and by inserting the following new subparagraph:

''(C) LIMITATION ON USE OF PRECEDING YEAR'S TAX.—

''(i) IN GENERAL.—If the adjusted gross income shown on the return of the individual for the preceding taxable year exceeds $150,000, clause (ii) of subparagraph (B) shall be applied by substituting '110 percent' for '100 percent'.

''(ii) SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) who files a separate return for the taxable year for which

the amount of the installment is being determined, clause (i) shall be applied by substituting '$75,000' for '$150,000'.

''(iii) SPECIAL RULE.—In the case of an estate or trust, adjusted gross income shall be determined as provided in section 67(e).''

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6654(j)(3) is amended by striking ''and subsection (d)(1)(C)(iii) shall not apply''.

(2) Paragraph (4) of section 6654(l) is amended by striking ''paragraphs (1)(C)(iv) and (2)(B)(i) of subsection (d)'' and inserting ''subsection (d)(2)(B)(i)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 8215. SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

(a) ADDITIONAL INCLUSION FOR CERTAIN TAXPAYERS.—

(1) IN GENERAL.—Subsection (a) of section 86 (relating to social security and tier 1 railroad retire-

ment benefits) is amended by adding at the end the following new paragraph:

''(2) ADDITIONAL AMOUNT.—In the case of a taxpayer with respect to whom the amount determined under subsection (b)(1)(A) exceeds the adjusted base amount, the amount included in gross income under this section shall be equal to the lesser of—

''(A) the sum of—

''(i) 85 percent of such excess, plus

''(ii) the lesser of the amount determined under paragraph (1) or an amount equal to one-half of the difference between the adjusted base amount and the base amount of the taxpayer, or

''(B) 85 percent of the social security benefits received during the taxable year.''

(2) CONFORMING AMENDMENTS.—Subsection (a) of section 86 is amended—

(A) by striking ''Gross'' and inserting:

''(1) IN GENERAL.—Except as provided in paragraph (2), gross'', and

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(b) ADJUSTED BASE AMOUNT.—Section 86(c) (defining base amount) is amended to read as follows:

''(c) BASE AMOUNT AND ADJUSTED BASE AMOUNT.—For purposes of this section—

''(1) BASE AMOUNT.—The term 'base amount' means—

''(A) except as otherwise provided in this paragraph, $25,000,

''(B) $32,000 in the case of a joint return, and

''(C) zero in the case of a taxpayer who—

''(i) is married as of the close of the taxable year (within the meaning of section 7703) but does not file a joint return for such year, and

''(ii) does not live apart from his spouse at all times during the taxable year.

''(2) ADJUSTED BASE AMOUNT.—The term 'adjusted base amount' means—

''(A) except as otherwise provided in this paragraph, $32,000,

''(B) $40,000 in the case of a joint return, and

''(C) zero in the case of a taxpayer described in paragraph (1)(C).''

(c) TRANSFERS TO THE HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 121(e) of the Social Security Amendments of 1983 (Public Law 92–21) is amended by—

(A) striking ''There'' and inserting:

''(A) There'';

(B) inserting ''(i)'' immediately following ''amounts equivalent to''; and

(C) striking the period and inserting the following: '', less (ii) the amounts equivalent to the aggregate increase in tax liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the amendments to section 86 of such Code made by section 8215 of the Revenue Reconciliation Act of 1993.

''(B) There are hereby appropriated to the hospital insurance trust fund amounts equal to the increase in tax liabilities described in subparagraph (A)(ii). Such appropriated amounts shall be transferred from the general fund of the Treasury on the basis of estimates of such tax liabilities made by the Secretary of the Treasury. Transfers shall be made pursuant to a schedule made by the Secretary of the Treas-

ury that takes into account estimated timing of collection of such liabilities.''

(2) DEFINITION.—Paragraph (3) of section 121(e) of such Act is amended by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

''(B) HOSPITAL INSURANCE TRUST FUND.—The term 'hospital insurance trust fund' means the fund established pursuant to section 1817 of the Social Security Act.''.

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 121(e) of such Act is amended in the first sentence by striking ''paragraph (1)'' and inserting ''paragraph (1)(A).''

(4) TECHNICAL AMENDMENTS.—Paragraph (1)(A) of section 121(e) of such Act, as redesignated and amended by paragraph (1), is amended by striking ''1954'' and inserting ''1986''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1993.

PART II—PROVISIONS AFFECTING BUSINESSES

SEC. 8221. INCREASE IN TOP MARGINAL RATE UNDER SECTION 11.

(a) GENERAL RULE.—Paragraph (1) of section 11(b) (relating to amount of tax) is amended—

(1) by striking ''and'' at the end of subparagraph (B),

(2) by striking subparagraph (C) and inserting the following:

''(C) 34 percent of so much of the taxable income as exceeds $75,000 but does not exceed $10,000,000, and

''(D) 35 percent of so much of the taxable income as exceeds $10,000,000.'', and

(3) by adding at the end thereof the following new sentence: ''In the case of a corporation which has taxable income in excess of $15,000,000, the amount of the tax determined under the foregoing provisions of this paragraph shall be increased by an additional amount equal to the lesser of (i) 3 percent of such excess, or (ii) $100,000.''

(b) CERTAIN PERSONAL SERVICE CORPORATIONS.—Paragraph (2) of section 11(b) is amended by striking ''34 percent'' and inserting ''35 percent''.

(c) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 852(b)(3)(D) is amended by striking ''66 percent'' and inserting ''65 percent''.

(2) Subsection (a) of section 1201 is amended by striking ''34 percent'' each place it appears and inserting ''35 percent''.

(3) Paragraphs (1) and (2) of section 1445(e) are each amended by striking ''34 percent'' and inserting ''35 percent''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 1993; except that the amendment made by subsection (c)(3) shall take effect on the date of the enactment of this Act.

SEC. 8222. DISALLOWANCE OF DEDUCTION FOR LOBBYING EXPENDITURES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end the following new section:

''SEC. 280I. LOBBYING EXPENDITURES.

''(a) DEDUCTION DISALLOWED.—No deduction shall be allowed under this chapter for any amount paid or incurred—

''(1) for lobbying activities, or

''(2) to another person for the conduct of lobbying activities.

''(b) LOBBYING ACTIVITIES.—For purposes of this section—

''(1) IN GENERAL.—The term 'lobbying activity' means—

''(A) any lobbying contact, or

''(B) any activity in support of a lobbying contact.

''(2) SUPPORT ACTIVITIES.—For purposes of paragraph (1)(B), the following shall be treated as in support of a lobbying contact:

''(A) Any preparation or planning activity relating to a lobbying contact (including, in the case of a lobbyist, the formulation, review, and management of the lobbying contacts on behalf of a client).

''(B) Any research or other background work relating to a lobbying contact.

''(C) Any activity coordinating the lobbying activity of 2 or more persons.

''(3) MEALS, ENTERTAINMENT, OR TRAVEL.—Any amount paid or incurred in connection with the providing of meals, entertainment, or travel to a cov-

ered legislative or executive branch official (or to an individual accompanying such official) shall be treated as paid or incurred for a lobbying activity without regard to whether it is in support of a lobbying contact.

''(c) LOBBYING CONTACT.—For purposes of this section—

''(1) IN GENERAL.—The term 'lobbying contact' means—

''(A) in the case of a lobbyist, any oral or written communication with a covered legislative or executive branch official, and

''(B) in the case of any other person, any oral or written communication with a covered legislative or executive branch official in connection with an attempt to influence governmental actions described in paragraph (2).

''(2) GOVERNMENTAL ACTIONS AFFECTED.—The following governmental actions are described in this paragraph:

''(A) The formulation, modification, adoption, or repeal of legislation (including legislative proposals).

''(B) The formulation, modification, adoption, or repeal of a Federal rule, regulation,

Executive order, or any other program, policy, or position of the United States.

''(C) The administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license).

''(3) EXCEPTIONS.—The term 'lobbying contact' shall not include any contact—

''(A) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of Congress, a State or local legislative body, or a Federal agency,

''(B) made in response to a notice in the Federal Register, Commerce Business Daily, or other similar publication soliciting communications from the public and directed to the agency official specifically designated in the notice to receive such communications,

''(C) made to Federal agency officials with regard to judicial proceedings, criminal or civil law enforcement inquiries, investigations or proceedings, or filings required by statute or regulation,

''(D) made in compliance with written agency procedures regarding an adjudication

conducted by the agency under section 554 of title 5, United States Code, or any substantially similar provision, or

''(E) made on behalf of an individual with regard to such individual's benefits, employment, other personal matters involving only that individual, or disclosures by that individual pursuant to applicable whistleblower statutes,

''(F) in the case of any governmental action described in paragraph (2) (B) or (C), which consists of written comments filed in a public docket or other communications made on the record in a public proceeding, or

''(G) in the case of any governmental action described in paragraph (2)(C), which consists of communications which are made to officials serving in the agency responsible for taking such action who serve in the Senior Executive Service or who are members of the uniformed services whose pay grade is lower than 0–9 under section 201 of title 37, United States Code.

''(d) SPECIAL RULE FOR EXEMPT ORGANIZATIONS.—

"(1) TREATMENT OF DUES, ETC.—Subsection (a) shall apply to dues, assessments, or other similar amounts paid by any person to an organization exempt from taxation under this chapter (other than an organization described in section 170(c)) to the extent such dues, assessments, or amounts are attributable to amounts paid or incurred by the organization which are described in subsection (a).

"(2) SPECIAL RULE FOR CHARITIES.—In the case of an organization described in section 170(c) (other than paragraph (1) thereof or section 170(b)(1)(A)(i)), subsection (a) shall apply to any dues, assessments, contributions, or other similar amounts which are paid to the organization and which are otherwise deductible under this chapter to the extent that any such amount—

"(A) is attributable to amounts paid or incurred by the organization which are described in subsection (a),

"(B) is in connection with lobbying activities of direct financial interest to the payor's (or a related person's) trade or business, and

"(C) when added to all other payments made by the payor (and any related person) to

the organization during the calendar year in which the taxable year begins, exceeds $2,000.

''(3) ALLOCATION RULES.—For purposes of this subsection—

''(A) dues or other similar amounts paid during any calendar year shall, except as provided by the Secretary, only be attributable to amounts not deductible under subsection (a) which are paid or incurred by the organization during such calendar year, and

''(B) amounts which are not deductible under subsection (a) shall be treated as paid first out of dues or other similar amounts.

''(4) REPORTING REQUIREMENTS.—

"For requirements of organization to notify contributors, see section 6050O.

''(e) OTHER RULES AND DEFINITIONS.—For purposes of this section—

''(1) SPECIAL RULE FOR CERTAIN TAXPAYERS.—In the case of—

''(A) any taxpayer engaged in the trade or business of conducting activities described in subsection (a), or

''(B) any taxpayer who is an employee who is reimbursed by his employer for expenses incurred in conducting such activities,

subsection (a) shall not apply to expenditures of the taxpayer in conducting such activities on behalf of another person or his employer (but shall apply to payments by such other person or the employer to the taxpayer for conducting the activities).

''(2) AGENCY.—The term 'agency' has the same meaning given such term by section 551(1) of title 5, United States Code.

''(3) COVERED EXECUTIVE BRANCH OFFICIAL.—The term 'covered executive branch official' means—

''(A) the President,

''(B) the Vice President,

''(C) any officer or employee of the Executive Office of the President, other than a clerical or secretarial employee,

''(D) any officer or employee serving in an Executive level I, II, III, IV, or V position, as designated in statute or Executive order,

''(E) any officer or employee serving in a Senior Executive Service position as defined under section 3232(a)(2) of title 5, United States Code,

''(F) any member of the uniformed services whose pay grade is at or in excess of O–7 under section 201 of title 37, United States Code, and

''(G) any officer or employee serving in a position of confidential or policy-determining character under schedule C of the excepted service pursuant to section 7511 of title 5, United States Code.

''(4) COVERED LEGISLATIVE BRANCH OFFICIAL.—The term 'covered legislative branch official' means—

''(A) a Member of Congress,

''(B) an elected officer of Congress,

''(C) any employee of a Member of the House of Representatives, of a committee of the House of Representatives, or on the leadership staff of the House of Representatives,

''(D) any employee of a Senator, of a Senate committee, or on the leadership staff of the Senate, and

''(E) any employee of a joint committee of the Congress.

Such term includes any member, officer, or employee of a State or local legislative body.

"(5) LOBBYIST.—The term 'lobbyist' means any person who is employed or retained by another person to perform services which include any attempt to influence a governmental action described in subsection (c)(2). Such term does not include a person whose lobbying activities are only incidental to, and are not a significant part of, the services the person performs for such other person. For purposes of the preceding sentence, lobbying activities shall not include activities described in subsection (c)(3).

"(6) LEGISLATION.—The term 'legislation' has the meaning given such term by section 4911(e)(2).

"(7) COORDINATION WITH SECTION 4911.—No tax shall be imposed under section 4911 on any amount with respect to which a deduction is not allowed by reason of subsection (d).

"(f) CROSS REFERENCE.—

"For disallowance of deductions for grassroots lobbying expenditures, see section 162(e)(2)."

(2) CONFORMING AMENDMENTS.—

(A) Section 162(e) (relating to appearances, etc., with respect to legislation) is amended to read as follows:

"(e) DENIAL OF DEDUCTION FOR CERTAIN POLITICAL EXPENDITURES.—

''(1) IN GENERAL.—No deduction shall be allowed under this chapter for any amount paid or incurred—

''(A) for participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office, or

''(B) in connection with any attempt to influence the general public, or segments thereof, with respect to legislative matters, elections, or referendums.

''(2) APPLICATION TO DUES.—

''(A) IN GENERAL.—No deduction shall be allowed under this chapter for the portion of dues or other similar amounts paid by the taxpayer to an organization which is allocable to the expenditures described in paragraph (1).

''(B) ALLOCATION.—For purposes of subparagraph (A), expenditures described in paragraph (1) shall be treated as paid first out of dues or other similar amounts.

''(3) CROSS REFERENCE.—

"For disallowance of deductions for lobbying expenditures, see section 280I."

(B) The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 280I. Lobbying expenditures.''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after December 31, 1993.

(b) REPORTING REQUIREMENTS RELATING TO LOBBYING EXPENDITURES.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end the following new section:

''SEC. 6050O. RETURNS RELATING TO LOBBYING EXPENDITURES OF CERTAIN ORGANIZATIONS.

''(a) REQUIREMENT OF REPORTING.—Each organization described in section 280I(d) shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the names and addresses of persons paying dues to the organization, the amount of the dues paid by such person, and the portion of such dues which is nondeductible under section 280I.

''(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Any organization required to make a return

under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the organization, and

"(2) the dues paid by the person during the calendar year and the portion of such dues which is nondeductible under section 280I.

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the persons on or before January 31 of the year following the calendar year for which the return under subsection (a) was made and shall be in such form as the Secretary may prescribe by regulations.

"(c) DE MINIMUS EXCEPTION.—This section shall not apply to any organization for any calendar year if the organization's lobbying expenditures described in section 280I(a) for such year are less than $2,000. For purposes of the preceding sentence, overhead costs otherwise allocable to lobbying activities shall not be taken into account.

"(d) WAIVER.—The Secretary may waive the reporting requirements of this section with respect to any organization or class of organizations if the Secretary deter-

mines that such reporting is not necessary to carry out the purposes of section 280I.

''(e) DUES.—For purposes of this section, the term 'dues' includes assessments, contributions, and other similar amounts.''

(2) PENALTIES.—

(A) RETURNS.—Subparagraph (B) of section 6724(d)(1) (defining information return) is amended by striking ''or'' at the end of clause (xi), by striking the period at the end of the clause (xii) relating to section 4101(d) and inserting a comma, by redesignating the clause (xii) relating to section 338(h)(10) as clause (xiii), by striking the period at the end of clause (xiii) (as so redesignated) and inserting '', or'', and by adding at the end the following new clause:

''(xiv) section 6050O(a) (relating to information on nondeductible lobbying expenditures).''

(B) PAYEE STATEMENTS.—Paragraph (2) of section 6724(d) (defining payee statement) is amended by striking ''or'' at the end of subparagraph (R), by striking the period at the end of subparagraph (S) and inserting '', or'',

and by adding at the end the following new subparagraph:

''(T) section 6050O(b) (relating to returns on nondeductible lobbying expenditures).''

(3) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

''Sec. 6050O. Returns relating to lobbying expenditures of certain organizations.''

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to calendar years beginning after December 31, 1993.

SEC. 8223. MARK TO MARKET ACCOUNTING METHOD FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

''SEC. 475. MARK TO MARKET ACCOUNTING METHOD FOR DEALERS IN SECURITIES.

''(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

''(1) Any security which is inventory in the hands of the dealer shall be included in inventory at its fair market value.

''(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

''(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

''(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

''(b) EXCEPTIONS.—

''(1) IN GENERAL.—Subsection (a) shall not apply to—

''(A) any security held for investment, and

''(B) any security which is a hedge with respect to—

''(i) a security to which subsection (a) does not apply, or

"(ii) a position, right to income, or a liability which is not a security in the hands of the taxpayer.

To the extent provided in regulations, subparagraph (B) shall not apply to any security held by a person in its capacity as a dealer in securities.

"(2) IDENTIFICATION REQUIRED.—A security shall not be treated as described in subparagraph (A) or (B) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) SECURITIES SUBSEQUENTLY NOT EXEMPT.—If a security ceases to be described in paragraph (1) at any time after it was identified as such under paragraph (2), subsection (a) shall apply to any changes in value of the security occurring after the cessation.

"(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D)

or (E) of subsection (c)(2) which is held by a dealer in such securities.

''(c) DEFINITIONS.—For purposes of this section—

''(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

''(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

''(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

''(2) SECURITY DEFINED.—The term 'security' means any—

''(A) share of stock in a corporation;

''(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

''(C) note, bond, debenture, or other evidence of indebtedness;

''(D) interest rate, currency, or equity notional principal contract;

''(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D),

or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security or currency; and

''(F) position which—

''(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

''(ii) is a hedge with respect to such a security, and

''(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

Subparagraph (E) shall not include any contract to which section 1256(a) applies.

''(3) HEDGE.—The term 'hedge' means any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position which is reasonably expected to become a hedge within 60 days after the acquisition of the position.

''(d) SPECIAL RULES.—For purposes of this section—

"(1) COORDINATION WITH CERTAIN RULES.—The rules of sections 263(g), 263A, and 1256(a) shall not apply to securities to which subsection (a) applies, and section 1091 shall not apply (and section 1092 shall apply) to any loss recognized under subsection (a).

"(2) IMPROPER IDENTIFICATION.—If a taxpayer—

"(A) identifies any security under subsection (b)(2) as being described in subsection (b)(1) and such security is not so described, or

"(B) fails under subsection (c)(2)(F)(iii) to identify any position which is described in subsection (c)(2)(F) (without regard to clause (iii) thereof) at the time such identification is required,

the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security or position shall be recognized only to the extent of gain previously recognized under this section (and not previously taken into account under this paragraph) with respect to such security or position.

"(3) CHARACTER OF GAIN OR LOSS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or section 1236(b)—

"(i) IN GENERAL.—Any gain or loss with respect to a security under subsection (a)(2) shall be treated as ordinary income or loss.

"(ii) SPECIAL RULE FOR DISPOSITIONS.—If—

"(I) gain or loss is recognized with respect to a security before the close of the taxable year, and

"(II) subsection (a)(2) would have applied if the security were held as of the close of the taxable year,

such gain or loss shall be treated as ordinary income or loss.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any gain or loss which is allocable to a period during which—

"(i) the security is described in subsection (b)(1)(B) (without regard to subsection (b)(2)),

"(ii) the security is held by a person other than in connection with its activities as a dealer in securities, or

''(iii) the security is improperly identified (within the meaning of subparagraph (A) or (B) of paragraph (2)).

''(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

''(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and

''(2) to provide for the application of this section to any security which is a hedge which cannot be identified with a specific security, position, right to income, or liability.''

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 988(d) is amended—

(A) by striking ''section 1256'' and inserting ''section 475 or 1256'', and

(B) by striking ''1092 and 1256'' and inserting ''475, 1092, and 1256''.

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

''Sec. 475. Mark to market accounting method for dealers in securities.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1993.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) except as provided in paragraph (3), the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 5-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

(3) SPECIAL RULE FOR FLOOR SPECIALISTS AND MARKET MAKERS.—

(A) IN GENERAL.—If—

(i) a taxpayer (or any predecessor) used the last-in first-out (LIFO) method of

accounting with respect to any qualified securities for the 5-taxable year period ending with its last taxable year ending before December 31, 1993, and

(ii) any portion of the net amount described in paragraph (2)(C) is attributable to the use of such method of accounting,

then paragraph (2)(C) shall be applied by taking such portion into account ratably over the 15-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

(B) QUALIFIED SECURITY.—For purposes of this paragraph, the term ''qualified security'' means any security acquired—

(i) by a floor specialist (as defined in section 1236(d)(2) of the Internal Revenue Code of 1986) in connection with the specialist's duties as a specialist on an exchange, but only if the security is one in which the specialist is registered with the exchange, or

(ii) by a taxpayer who is a market maker in connection with the taxpayer's duties as a market maker, but only if—

(I) the security is included on the National Association of Security Dealers Automated Quotation System,

(II) the taxpayer is registered as a market maker in such security with the National Association of Security Dealers, and

(III) as of the last day of the taxable year preceding the taxpayer's first taxable year ending on or after December 31, 1993, the taxpayer (or any predecessor) has been actively and regularly engaged as a market maker in such security for the 2-year period ending on such date (or, if shorter, the period beginning 61 days after the security was listed in such quotation system and ending on such date).

SEC. 8224. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the

disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term ''FSLIC assistance'' means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending on or after March

4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 apply.

SEC. 8225. MODIFICATION OF CORPORATE ESTIMATED TAX RULES.

(a) INCREASE IN REQUIRED INSTALLMENT BASED ON CURRENT YEAR TAX.—

(1) IN GENERAL.—Clause (i) of section 6655(d)(1)(B) (relating to amount of required installment) is amended by striking ''91 percent'' each place it appears and inserting ''100 percent''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 6655 is amended—

(i) by striking paragraph (3), and

(ii) by striking ''91 PERCENT'' in the paragraph heading of paragraph (2) and inserting ''100 PERCENT''.

(B) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting the following:

''In the case of the following required installments:	**The applicable percentage is:**
1st	25
2nd	50
3rd	75
4th	100.''

(C) Clause (i) of section 6655(e)(3)(A) is amended by striking ''91 percent'' and inserting ''100 percent''.

(b) MODIFICATION OF PERIODS FOR APPLYING ANNUALIZATION.—

(1) Clause (i) of section 6655(e)(2)(A) is amended—

(A) by striking ''or for the first 5 months'' in subclause (II),

(B) by striking ''or for the first 8 months'' in subclause (III), and

(C) by striking ''or for the first 11 months'' in subclause (IV).

(2) Paragraph (2) of section 6655(e) is amended by adding at the end thereof the following new subparagraph:

''(C) ELECTION FOR DIFFERENT ANNUALIZATION PERIODS.—

''(i) If the taxpayer makes an election under this clause—

''(I) subclause (I) of subparagraph (A)(i) shall be applied by substituting '2 months' for '3 months',

''(II) subclause (II) of subparagraph (A)(i) shall be applied by substituting '4 months' for '3 months',

''(III) subclause (III) of subparagraph (A)(i) shall be applied by sub-

stituting ‘7 months’ for ‘6 months’, and

‘‘(IV) subclause (IV) of subparagraph (A)(i) shall be applied by substituting ‘10 months’ for ‘9 months’.

‘‘(ii) If the taxpayer makes an election under this clause—

‘‘(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting ‘5 months’ for ‘3 months’,

‘‘(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting ‘8 months’ for ‘6 months’, and

‘‘(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting ‘11 months’ for ‘9 months’.

‘‘(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the first required installment for such taxable year.’’

(3) The last sentence of section 6655(g)(3) is amended by striking ‘‘and subsection (e)(2)(A)’’ and

inserting ''and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 8226. MODIFICATIONS OF DISCHARGE OF INDEBTEDNESS PROVISIONS.

(a) REPEAL OF STOCK FOR DEBT EXCEPTION IN DETERMINING INCOME FROM DISCHARGE OF INDEBTEDNESS.—

(1) IN GENERAL.—Subsection (e) of section 108 is amended—

(A) by striking paragraph (10) and by redesignating paragraph (11) as paragraph (10), and

(B) by amending paragraph (8) to read as follows:

''(8) INDEBTEDNESS SATISFIED BY CORPORATION'S STOCK.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor corporation transfers stock to a creditor in satisfaction of its indebtedness, such corporation shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock.''

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 382(l)(5) is amended to read as follows:

''(C) COORDINATION WITH SECTION 108.—In applying section 108(e)(8) to any case to which subparagraph (A) applies, there shall not be taken into account any indebtedness for interest described in subparagraph (B).''

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this subsection shall apply to stock transferred after June 17, 1993, in satisfaction of any indebtedness.

(B) EXCEPTION FOR TITLE 11 CASES.—The amendments made by this subsection shall not apply to stock transferred in satisfaction of any indebtedness if such transfer is in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1986) which was filed on or before June 17, 1993.

(C) EXCEPTION FOR BINDING CONTRACTS.—The amendments made by this section shall not apply to any stock transferred

after June 17, 1993, and before January 1, 1994, if such transfer is pursuant to a binding contract in effect on June 17, 1993, and at all times thereafter before the transfer.

(D) EXCEPTION FOR CERTAIN FILINGS.—The amendments made by this section shall not apply to any stock transferred in satisfaction of any indebtedness if—

(i) such transfer occurs after June 17, 1993, and before January 1, 1994, and

(ii) the taxpayer had filed with the Securities and Exchange Commission on or before June 17, 1993, a registration statement which proposed a stock-for-debt exchange with respect to such indebtedness, and which discussed the possible application of the stock-for-debt exception to such exchange.

(b) TAX ATTRIBUTES SUBJECT TO REDUCTION.—

(1) MINIMUM TAX CREDIT.—Section 108(b)(2) (relating to tax attributes affected; order of reduction) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F) and by adding after subparagraph (B) the following new subparagraph:

"(C) MINIMUM TAX CREDIT.—The amount of the minimum tax credit available under section 53(b) as of the beginning of the taxable year immediately following the taxable year of the discharge."

(2) PASSIVE ACTIVITY LOSSES AND CREDITS.—Section 108(b)(2), as amended by paragraph (1), is amended by redesignating subparagraph (F) as subparagraph (G) and by adding after subparagraph (E) the following new subparagraph:

"(F) PASSIVE ACTIVITY LOSS AND CREDIT CARRYOVERS.—Any passive activity loss or credit carryover of the taxpayer under section 469(b) from the taxable year of the discharge."

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 108(b)(3) is amended to read as follows:

"(B) CREDIT CARRYOVER REDUCTION.—The reductions described in subparagraphs (B), (C), and (G) shall be 33⅓ cents for each dollar excluded by subsection (a). The reduction described in subparagraph (F) in any passive activity credit carryover shall be 33⅓ cents for each dollar excluded by subsection (a)."

(B) Subparagraph (B) of section 108(b)(4) is amended by striking ''(C)'' in the text and heading thereof and inserting ''(D)''.

(C) Subparagraph (C) of section 108(b)(4) is amended by striking ''(E)'' in the text and heading thereof and inserting ''(G)''.

(D) Subparagraph (B) of section 108(g)(3) is amended—

(i) by striking ''subparagraphs (A), (B), (C), and (E)'' and inserting ''subparagraphs (A), (B), (C), (D), (F), and (G)'',

(ii) by striking ''subparagraphs (B) and (E)'' and inserting ''subparagraphs (B), (C), and (G)'', and

(iii) by inserting before the period at the end the following: ''and the attribute described in subparagraph (F) of subsection (b)(2) to the extent attributable to any passive activity credit carryover''.

(4) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 8227. LIMITATION ON SECTION 936 CREDIT.

(a) GENERAL RULE.—Subsection (a) of section 936 (relating to Puerto Rico and possession tax credit) is amended—

(1) by striking ''as provided in paragraph (3)'' in paragraph (1) and inserting ''as otherwise provided in this section'';

(2) by adding at the end thereof the following new paragraph:

''(4) LIMITATIONS ON CREDIT FOR ACTIVE BUSINESS INCOME.—

''(A) IN GENERAL.—The amount of the credit determined under paragraph (1)(A) for any taxable year shall not exceed the sum of the following amounts:

''(i) 95 percent of the sum of—

''(I) the aggregate amount of the possession corporation's qualified possession wages for such taxable year, plus

''(II) the allocable employee fringe benefit expenses of the possession corporation for the taxable year.

''(ii) The sum of—

''(I) 50 percent of the depreciation deductions allowable under sec-

tion 167 to the possession corporation for the taxable year with respect to short-life qualified tangible property,

''(II) 75 percent of the depreciation deductions allowable under section 167 to the possession corporation for the taxable year with respect to medium-life qualified tangible property, and

''(III) 100 percent of the depreciation deductions allowable under section 167 to the possession corporation for the taxable year with respect to long-life qualified tangible property.

''(iii) If the possession corporation does not have an election to use the method described in subsection (h)(5)(C)(ii) (relating to profit split) in effect for the taxable year, the amount of qualified possession income taxes for the taxable year allocable to nonsheltered income.

''(B) ELECTION TO TAKE REDUCED CREDIT.—

"(i) IN GENERAL.—If an election under this subparagraph applies to a possession corporation for any taxable year—

"(I) subparagraph (A), and the provisions of subsection (i), shall not apply to such possession corporation for such taxable year, and

"(II) the credit determined under paragraph (1)(A) for such taxable year shall be the applicable percentage of the credit which would otherwise have been determined under such paragraph.

Notwithstanding subclause (I), a possession corporation to which an election under this subparagraph applies shall be entitled to the benefits of subsection (i)(3)(B) for taxes allocable (on a pro rata basis) to taxable income the tax on which is not offset by reason of this subparagraph.

"(ii) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means the percentage determined in accordance with the following table:

"In the case of taxable year beginning in:	**The percentage is:**
1994	60

"In the case of taxable year beginning in:	The percentage is:
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,

members of an affiliated group shall be determined without regard to the exceptions contained in section 1504(b) and as if the constructive ownership rules of section 1563(e) applied for purposes of section 1504(a). The Secretary may prescribe regulations to prevent the avoidance of this subclause through deconsolidation or otherwise.

''(C) CROSS REFERENCE.—

"For definitions and special rules applicable to this paragraph, see subsection (i)."

(b) DEFINITIONS AND SPECIAL RULES.—Section 936 is amended by adding at the end thereof the following new subsection:

''(i) DEFINITIONS AND SPECIAL RULES RELATING TO LIMITATIONS OF SUBSECTION (a)(4).—

''(1) QUALIFIED POSSESSION WAGES.—For purposes of this section—

''(A) IN GENERAL.—The term 'qualified possession wages' means wages paid or incurred by the possession corporation during the taxable year in connection with the active conduct of a trade or business within a possession of the United States to any employee for services per-

formed in such possession, but only if such services are performed while the principal place of employment of such employee is within such possession.

''(B) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.—

''(i) IN GENERAL.—The amount of wages which may be taken into account under subparagraph (A) with respect to any employee for any taxable year shall not exceed 85 percent of the contribution and benefit base determined under section 230 of the Social Security Act for the calendar year in which such taxable year begins.

''(ii) TREATMENT OF PART-TIME EMPLOYEES, ETC.—If—

''(I) any employee is not employed by the possession corporation on a substantially full-time basis at all times during the taxable year, or

''(II) the principal place of employment of any employee with the possession corporation is not within a

possession at all times during the taxable year,

the limitation applicable under clause (i) with respect to such employee shall be the appropriate portion (as determined by the Secretary) of the limitation which would otherwise be in effect under clause (i).

''(C) TREATMENT OF CERTAIN EMPLOYEES.—The term 'qualified possession wages' shall not include any wages paid to employees who are assigned by the employer to perform services for another person, unless the principal trade or business of the employer is to make employees available for temporary periods to other persons in return for compensation. All possession corporations treated as 1 corporation under paragraph (6) shall be treated as 1 employer for purposes of the preceding sentence.

''(D) WAGES.—

''(i) IN GENERAL.—Except as provided in clause (ii), the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). For purposes of

the preceding sentence, such subsection (b) shall be applied as if the term 'United States' included all possessions of the United States.

''(ii) SPECIAL RULE FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—In any case to which subparagraph (A) or (B) of paragraph (1) of section 51(h) applies, the term 'wages' has the meaning given to such term by section 51(h)(2).

''(2) ALLOCABLE EMPLOYEE FRINGE BENEFIT EXPENSES.—

''(A) IN GENERAL.—The allocable employee fringe benefit expenses of any possession corporation for any taxable year is an amount which bears the same ratio to the amount determined under subparagraph (B) for such taxable year as—

''(i) the aggregate amount of the possession corporation's qualified possession wages for such taxable year, bears to

''(ii) the aggregate amount of the wages paid or incurred by such possession corporation during such taxable year.

In no event shall the amount determined under the preceding sentence exceed 15 percent of the amount referred to in clause (i).

''(B) EXPENSES TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), the amount determined under this subparagraph for any taxable year is the aggregate amount allowable as a deduction under this chapter to the possession corporation for such taxable year (determined without regard to paragraph (5)) with respect to—

''(i) employer contributions under a stock bonus, pension, profit-sharing, or annuity plan,

''(ii) employer-provided coverage under any accident or health plan for employees, and

''(iii) the cost of life or disability insurance provided to employees.

Any amount treated as wages under paragraph (1)(D) shall not be taken into account under this subparagraph.

''(3) TREATMENT OF POSSESSION TAXES.—

''(A) AMOUNT OF CREDIT FOR POSSESSION CORPORATIONS NOT USING PROFIT SPLIT.—

"(i) IN GENERAL.—For purposes of subsection (a)(4)(A)(iii), the amount of the qualified possession income taxes for any taxable year allocable to nonsheltered income shall be an amount which bears the same ratio to the possession income taxes for such taxable year as—

"(I) the increase in the tax liability of the possession corporation under this chapter by reason of subsection (a)(4)(A) (without regard to clause (iii) thereof) and paragraph (5) of this subsection, bears to

"(II) the tax liability of the possession corporation for the taxable year determined without regard to the credit allowable under this section and without regard to paragraph (5) of this subsection.

"(ii) LIMITATION ON AMOUNT OF TAXES TAKEN INTO ACCOUNT.—Possession income taxes shall not be taken into account under clause (i) for any taxable year to the extent that the amount of such

taxes exceeds 9 percent of the amount of the taxable income for such taxable year.

''(B) DEDUCTION FOR POSSESSION CORPORATIONS USING PROFIT SPLIT.—Notwithstanding subsection (c) if a possession corporation is not described in subsection (a)(4)(A)(iii) for any taxable year, such possession corporation shall be allowed a deduction for such taxable year in an amount which bears the same ratio to the possession income taxes for such taxable year as—

''(i) the increase in the tax liability of the possession corporation under this chapter by reason of subsection (a)(4)(A) and paragraph (5) of this subsection, bears to

''(ii) the tax liability of the possession corporation for the taxable year determined without regard to the credit allowable under this section and without regard to paragraph (5) of this subsection.

In determining the credit under subsection (a) and in applying the preceding sentence, taxable income shall be determined without regard to the preceding sentence.

"(C) POSSESSION INCOME TAXES.—For purposes of this paragraph, the term 'possession income taxes' means any taxes of a possession of the United States which are treated as not being income, war profits, or excess profits taxes paid or accrued to a possession of the United States by reason of subsection (c).

"(4) CATEGORIES OF DEPRECIABLE PROPERTY.—For purposes of this section—

"(A) QUALIFIED TANGIBLE PROPERTY.—The term 'qualified tangible property' means any tangible property used by the possession corporation in a possession of the United States in the active conduct of a trade or business within such possession.

"(B) SHORT-LIFE QUALIFIED TANGIBLE PROPERTY.—The term 'short-life qualified tangible property' means any qualified tangible property to which section 168 applies and which is 3-year property or 5-year property for purposes of such section.

"(C) MEDIUM-LIFE QUALIFIED TANGIBLE PROPERTY.—The term 'medium-life qualified tangible property' means any qualified tangible property to which section 168 applies and which

is 7-year property or 10-year property for purposes of such section.

''(D) LONG-LIFE QUALIFIED TANGIBLE PROPERTY.—The term 'long-life qualified tangible property' means any qualified tangible property to which section 168 applies and which is not described in subparagraph (B) or (C).

''(E) TRANSITIONAL RULE.—In the case of any qualified tangible property to which section 168 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) applies, any reference in this paragraph to section 168 shall be treated as a reference to such section as so in effect.

''(5) DENIAL OF DOUBLE BENEFIT.—

''(A) IN GENERAL.—Notwithstanding any other provision of this chapter, no deduction shall be allowed to a possession corporation for—

''(i) any qualified possession wages,

''(ii) any allocable employee fringe benefit expenses, and

''(iii) any depreciation deductions referred to in subsection (a)(4)(A)(ii).

''(B) COORDINATION WITH OTHER PROVISIONS.—Subparagraph (A) shall not apply for purposes of—

''(i) determining the amount of the credit allowable under subsection (a)(1)(A) or otherwise determining the taxable income of the possession corporation under any other provision of this section, and

''(ii) determining adjustments to the basis of any property on account of depreciation deductions.

''(6) ELECTION TO COMPUTE CREDIT ON CONSOLIDATED BASIS.—

''(A) IN GENERAL.—Any affiliated group may elect to treat all possession corporations which would be members of such group but for section 1504(b) (3) or (4) as 1 corporation for purposes of this section. The credit determined under this section with respect to such 1 corporation shall be allocated among such possession corporations in such manner as the Secretary may prescribe.

''(B) ELECTION.—An election under subparagraph (A) shall apply to the taxable year for which made and all succeeding taxable years

unless revoked with the consent of the Secretary.

''(7) POSSESSION CORPORATION.—The term 'possession corporation' means a domestic corporation for which the election provided in subsection (a) is in effect.''

(c) MINIMUM TAX TREATMENT.—

(1) IN GENERAL.—Clause (ii) of section 56(g)(4)(C) (relating to treatment of special rule for certain dividends) is amended by striking ''sections 936 and 921'' and inserting ''sections 936 (including subsections (a)(4) and (i) thereof) and 921''.

(2) TREATMENT OF FOREIGN TAXES.—Clause (iii) of section 56(g)(4)(C) is amended by adding at the end thereof the following subclauses:

''(IV) SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATIONS.—In determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income referred to in a subparagraph of section 904(d)(1).

"(V) COORDINATION WITH LIMITATION ON 936 CREDIT.—Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 936 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (i) after the application of clause (ii)(I)."

(d) CONFORMING AMENDMENT.—Paragraph (4) of section 904(b) is amended by inserting before the period at the end thereof the following: "(without regard to subsections (a)(4) and (i) thereof)".

(e) INCREASE IN LIMITATION ON COVER OVER.—Paragraph (1) of section 7652(f) is amended to read as follows:

"(1) $10.50 ($11.30 in the case of distilled spirits brought into the United States during the 5-year period beginning on October 1, 1993), or."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993; except that the amendment made by subsection (e) shall take effect on October 1, 1993.

SEC. 8228. MODIFICATION TO LIMITATION ON DEDUCTION FOR CERTAIN INTEREST.

(a) GENERAL RULE.—Paragraph (3) of section 163(j) (defining disqualified interest) is amended to read as follows:

''(3) DISQUALIFIED INTEREST.—For purposes of this subsection, the term 'disqualified interest' means—

''(A) any interest paid or accrued by the taxpayer (directly or indirectly) to a related person if no tax is imposed by this subtitle with respect to such interest, and

''(B) any interest paid or accrued by the taxpayer with respect to any indebtedness to a person who is not a related person if—

''(i) there is a disqualified guarantee of such indebtedness, and

''(ii) no gross basis tax is imposed by this subtitle with respect to such interest.''

(b) DEFINITIONS.—Paragraph (6) of section 163(j) is amended by adding at the end thereof the following new subparagraphs:

''(D) DISQUALIFIED GUARANTEE.—

''(i) IN GENERAL.—Except as provided in clause (ii), the term 'disqualified

guarantee' means any guarantee by a related person which is—

''(I) an organization exempt from taxation under this subtitle, or

''(II) a foreign person.

''(ii) EXCEPTIONS.—The term 'disqualified guarantee' shall not include a guarantee—

''(I) in any circumstances identified by the Secretary by regulation, where the interest on the indebtedness would have been subject to a net basis tax if the interest had been paid to the guarantor, or

''(II) if the taxpayer owns a controlling interest in the guarantor.

For purposes of subclause (II), except as provided in regulations, the term 'a controlling interest' means direct or indirect ownership of at least 80 percent of the total voting power and value of all classes of stock of a corporation, or 80 percent of the profit and capital interests in any other entity. For purposes of the preceding sentence, the rules of paragraphs (1) and (5)

of section 267(c) shall apply; except that such rules shall also apply to interest in entities other than corporations.

''(iii) GUARANTEE.—Except as provided in regulations, the term 'guarantee' includes any arrangement under which a person (directly or indirectly through an entity or otherwise) assures, on a conditional or unconditional basis, the payment of another person's obligation under any indebtedness.

''(E) GROSS BASIS AND NET BASIS TAXATION.—

''(i) GROSS BASIS TAX.—The term 'gross basis tax' means any tax imposed by this subtitle which is determined by reference to the gross amount of any item of income without any reduction for any deduction allowed by this subtitle.

''(ii) NET BASIS TAX.—The term 'net basis tax' means any tax imposed by this subtitle which is a not a gross basis tax.''

(c) CONFORMING AMENDMENT.—Subparagraph (B) of section 163(j)(5) is amended by striking ''to a related person''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to interest paid or accrued in taxable years beginning after December 31, 1993.

PART III—FOREIGN TAX PROVISIONS

Subpart A—Current Taxation of Certain Earnings of Controlled Foreign Corporations

SEC. 8231. EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

(a) GENERAL RULE.—Paragraph (1) of section 951(a) (relating to amounts included in gross income of United States shareholders) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ''; and'', and by adding at the end thereof the following new subparagraph:

> ''(C) the amount determined under section 956A with respect to such shareholder for such year (but only to the extent not excluded from gross income under section 959(a)(3)).''

(b) AMOUNT OF INCLUSION.—Subpart F of part III of subchapter N of chapter 1 is amended by inserting after section 956 the following new section:

"SEC. 956A. EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

''(a) GENERAL RULE.—In the case of any controlled foreign corporation, the amount determined under this section with respect to any United States shareholder for any taxable year is the lesser of—

''(1) the excess (if any) of—

''(A) such shareholder's pro rata share of the amount of the controlled foreign corporation's excess passive assets for such taxable year, over

''(B) the amount of earnings and profits described in section 959(c)(1)(B) with respect to such shareholder, or

''(2) such shareholder's pro rata share of the applicable earnings of such controlled foreign corporation determined after the application of section 951(a)(1)(B).

''(b) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' means, with respect to any controlled foreign corporation, the sum of—

''(1) the amount referred to in section 316(a)(1) to the extent such amount was accumulated in taxable years beginning after September 30, 1993, and

''(2) the amount referred to in section 316(a)(2),

but reduced by distributions made during the taxable year and reduced by the earnings and profits described in section 959(c)(1) to the extent that the earnings and profits so described were accumulated in taxable years beginning after September 30, 1993.

''(c) EXCESS PASSIVE ASSETS.—For purposes of this section—

''(1) IN GENERAL.—The excess passive assets of any controlled foreign corporation for any taxable year is the excess (if any) of—

''(A) the average of the amounts of passive assets held by such corporation as of the close of each quarter of such taxable year, over

''(B) 25 percent of the average of the amounts of total assets held by such corporation as of the close of each quarter of such taxable year.

For purposes of the preceding sentence, the amount taken into account with respect to any asset shall be its adjusted basis as determined for purposes of computing earnings and profits.

''(2) PASSIVE ASSET.—

"(A) IN GENERAL.—Except as otherwise provided in this section, the term 'passive asset' means any asset held by the controlled foreign corporation which produces passive income (as defined in section 1296(b)) or is held for the production of such income.

"(B) COORDINATION WITH SECTION 956.—The term 'passive asset' shall not include any United States property (as defined in section 956).

"(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, the rules of the following provisions shall apply:

"(A) Section 1296(c) (relating to look-thru rules).

"(B) Section 1297(d) (relating to leasing rules).

"(C) Section 1297(e) (relating to intangible property).

"(d) TREATMENT OF CERTAIN CHAINS OF CONTROLLED FOREIGN CORPORATION.—

"(1) IN GENERAL.—For purposes of applying subsection (c)—

"(A) all controlled foreign corporations which are members of the same CFC chain

shall be treated as 1 controlled foreign corporation, and

''(B) the amount of the excess passive assets determined with respect to such 1 corporation shall be allocated among the controlled foreign corporations which are members of such chain in proportion to their respective amounts of applicable earnings.

''(2) CFC CHAIN.—For purposes of paragraph (1), the term 'CFC chain' means any chain of controlled foreign corporations connected through stock ownership, but only if more than 50 percent (by vote or value) of the stock of each member of such chain (other than the top tier corporation) is owned (directly or indirectly) by one or more other members of the chain.

''(e) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION DURING TAXABLE YEAR.—If any foreign corporation ceases to be a controlled foreign corporation during any taxable year—

''(1) the determination of any United States shareholder's pro rata share shall be made on the basis of stock owned (within the meaning of section 958(a)) by such shareholder on the last day during

the taxable year on which the foreign corporation is a controlled foreign corporation, and

''(2) the amount of such corporation's excess passive assets for such taxable year shall be determined by only taking into account quarters ending on or before such last day, and

''(3) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations to prevent the avoidance of the provisions of this section through reorganizations or otherwise.''

(c) PREVIOUSLY TAXED INCOME RULES.—

(1) IN GENERAL.—Subsection (a) of section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by striking ''or'' at the end of paragraph (1), by adding ''or'' at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

"(3) such amounts would, but for this subsection, be included under section 951(a)(1)(C) in the gross income of,".

(2) ALLOCATION RULES.—

(A) Subsection (a) of section 959 is amended by adding at the end thereof the following new sentence: "The rules of subsection (c) shall apply for purposes of paragraph (1) of this subsection and the rules of subsection (f) shall apply for purposes of paragraphs (2) and (3) of this subsection.".

(B) Section 959 is amended by adding at the end thereof the following new subsection:

"(f) ALLOCATION RULES FOR CERTAIN INCLUSIONS.—

"(1) IN GENERAL.—For purposes of this section—

"(A) amounts that would be included under subparagraph (B) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2), and then to earnings described in subsection (c)(3), and

"(B) amounts that would be included under subparagraph (C) of section 951(a)(1)

(determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2) to the extent the earnings so described were accumulated in taxable years beginning after September 30, 1993, and then to earnings described in subsection (c)(3).

''(2) TREATMENT OF DISTRIBUTIONS.—In applying this section, actual distributions shall be taken into account before amounts that would be included under subparagraphs (B) and (C) of section 951(a)(1) (determined without regard to this section).''

(C) Paragraph (1) of section 959(c) is amended to read as follows:

''(1) first to the aggregate of—

''(A) earnings and profits attributable to amounts included in gross income under section 951(a)(1)(B) (or which would have been included except for subsection (a)(2) of this section), and

''(B) earnings and profits attributable to amounts included in gross income under section 951(a)(1)(C) (or which would have been in-

cluded except for subsection (a)(3) of this section),

with any distribution being allocated between earnings and profits described in subparagraph (A) and earnings and profits described in subparagraph (B) proportionately on the basis of the respective amounts of such earnings and profits,''.

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a) and (b) of section 959 are each amended by striking ''earnings and profits for a taxable year'' and inserting ''earnings and profits''.

(B) Paragraph (2) of section 959(c) is amended to read as follows:

''(2) then to earnings and profits attributable to amounts included in gross income under section 951(a)(1)(A) (but reduced by amounts not included under subparagraph (B) or (C) of section 951(a)(1) because of the exclusions in paragraphs (2) and (3) of subsection (a) of this section), and''

(C) Subsection (b) of section 989 is amended by striking ''section 951(a)(1)(B)'' and inserting ''subparagraph (B) or (C) of section 951(a)(1)''.

(d) MODIFICATIONS TO PASSIVE FOREIGN INVESTMENT COMPANY RULES.—

(1) ADJUSTED BASIS USED IN CERTAIN DETERMINATIONS.—Subsection (a) of section 1296 is amended by striking the material following paragraph (2) and inserting the following:

''In the case of a controlled foreign corporation (or any other foreign corporation if such corporation so elects), the determination under paragraph (2) shall be based on the adjusted bases (as determined for purposes of computing earnings and profits) of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary.''

(2) TREATMENT OF CERTAIN SUBPART F INCLUSIONS.—Subsection (b) of section 1297 is amended by adding at the end thereof the following new paragraph:

''(9) TREATMENT OF CERTAIN SUBPART F INCLUSIONS.—Any amount included in gross income under subparagraph (B) or (C) of section 951(a)(1) shall be treated as a distribution received with respect to the stock.''

(3) TREATMENT OF CERTAIN DEALERS IN SECURITIES.—Subsection (b) of section 1296 is

amended by adding at the end thereof the following new paragraph:

''(3) TREATMENT OF CERTAIN DEALERS IN SECURITIES.—

''(A) IN GENERAL.—In the case of any foreign corporation which is a controlled foreign corporation (as defined in section 957(a)), the term 'passive income' does not include any income derived in the active conduct of a securities business by such corporation if such corporation is registered as a securities broker or dealer under section 15(a) of the Securities Exchange Act of 1934 or is registered as a Government securities broker or dealer under section 15C(a) of such Act. To the extent provided in regulations, such term shall not include any income derived in the active conduct of a securities business by a controlled foreign corporation which is not so registered.

''(B) APPLICATION OF LOOK-THRU RULES.—For purposes of paragraph (2)(C), rules similar to the rules of subparagraph (A) of this paragraph shall apply in determining whether any income of a related person (whether or not a corporation) is passive income.

"(C) LIMITATION.—The preceding provisions of this paragraph shall only apply in the case of persons who are United States shareholders (as defined in section 951(b)) in the controlled foreign corporation."

(4) LEASING AND INTANGIBLE ASSET RULES.—Section 1297 is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

"(d) TREATMENT OF CERTAIN LEASED PROPERTY.—For purposes of this part:

"(1) IN GENERAL.—Any tangible personal property with respect to which a foreign corporation is the lessee under a lease with a term of at least 12 months shall be treated as an asset actually held by such corporation.

"(2) DETERMINATION OF ADJUSTED BASIS.—

"(A) IN GENERAL.—The adjusted basis of any asset to which paragraph (1) applies shall be the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of pay-

ments described in subparagraph (A) shall be determined in the manner provided in regulations prescribed by the Secretary—

''(i) as of the beginning of the lease term, and

''(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

''(I) by substituting the lease term for the term of the debt instrument, and

''(II) without regard to paragraph (2) or (3) thereof.

''(3) EXCEPTIONS.—This subsection shall not apply in any case where—

''(A) the lessor is a related person (as defined in section 954(d)(3)) with respect to the foreign corporation, or

''(B) a principal purpose of leasing the property was to avoid the provisions of this section.

''(e) SPECIAL RULES FOR CERTAIN INTANGIBLES.—

''(1) RESEARCH EXPENDITURES.—The adjusted basis of the total assets of a controlled foreign cor-

poration shall be increased by the research or experimentation expenditures (within the meaning of section 174) paid or incurred by such foreign corporation during the taxable year and the preceding 2 taxable years.

''(2) CERTAIN LICENSED INTANGIBLES.—In the case of any intangible property (as defined in section 936(h)(3)(B)) with respect to which a controlled foreign corporation is a licensee and which is used by such foreign corporation in the active conduct of a trade or business, the adjusted basis of the total assets of such foreign corporation shall be increased by an amount equal to 300 percent of the payments made during the taxable year for the use of such intangible property. For purposes of the preceding sentence, payments to a foreign person shall not be taken into account if such foreign person is a related person (as defined in section 954(d)(3)) with respect to the controlled foreign corporation.

''(3) CONTROLLED FOREIGN CORPORATION.—For purposes of this subsection, the term 'controlled foreign corporation' has the meaning given such term by section 957(a).''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corpora-

tions beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

SEC. 8232. MODIFICATION TO TAXATION OF INVESTMENT IN UNITED STATES PROPERTY.

(a) GENERAL RULE.—Section 956 (relating to investment of earnings in United States property) is amended—

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

(2) by striking subsection (a) and inserting the following:

''(a) GENERAL RULE.—In the case of any controlled foreign corporation, the amount determined under this section with respect to any United States shareholder for any taxable year is the lesser of—

''(1) the excess (if any) of—

''(A) such shareholder's pro rata share of the average of the amounts of United States property held (directly or indirectly) by the controlled foreign corporation as of the close of each quarter of such taxable year, over

''(B) the amount of earnings and profits described in section 959(c)(1)(A) with respect to such shareholder, or

"(2) such shareholder's pro rata share of the applicable earnings of such controlled foreign corporation.

The amount taken into account under paragraph (1) with respect to any property shall be its adjusted basis as determined for purposes of computing earnings and profits, reduced by any liability to which the property is subject.

"(b) ADJUSTMENTS FOR CERTAIN DISTRIBUTIONS; OTHER SPECIAL RULES.—

"(1) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' has the meaning given to such term by section 956A(b), except that the provisions of such section disregarding earnings and profits accumulated in taxable years beginning before October 1, 1993 shall be disregarded.

"(2) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION.—Rules similar to the rules of section 956A(e) shall apply for purposes of this section."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 951(a)(1) is amended to read as follows:

"(B) the amount determined under section 956 with respect to such shareholder for such

year (but only to the extent not excluded from gross income under section 959(a)(2)); and''

(2) Subsection (a) of section 951 is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of controlled foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

SEC. 8233. OTHER MODIFICATIONS TO SUBPART F.

(a) SAME COUNTRY EXCEPTION NOT TO APPLY TO CERTAIN DIVIDENDS.—

(1) IN GENERAL.—Paragraph (3) of section 954(c) (relating to certain income received from related persons) is amended by adding at the end thereof the following new subparagraph:

''(C) EXCEPTION FOR CERTAIN DIVIDENDS.—Subparagraph (A)(i) shall not apply to any dividend with respect to any stock which is attributable to earnings and profits of the distributing corporation accumulated during any period during which the person receiving such dividend did not hold such stock.''

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years of controlled foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

(b) SIMPLIFICATION OF SECTION 960(b).—

(1) IN GENERAL.—Subsection (b) of section 960 is amended—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and

(B) by striking paragraphs (1) and (2) and inserting the following new paragraphs:

''(1) INCREASE IN SECTION 904 LIMITATION.—In the case of any taxpayer who—

''(A) either (i) chose to have the benefits of subpart A of this part for a taxable year beginning after September 30, 1993, in which he was required under section 951(a) to include any amount in his gross income, or (ii) did not pay or accrue for such taxable year any income, war profits, or excess profits taxes to any foreign country or to any possession of the United States,

"(B) chooses to have the benefits of subpart A of this part for any taxable year in which he receives 1 or more distributions or amounts which are excludable from gross income under section 959(a) and which are attributable to amounts included in his gross income for taxable years referred to in subparagraph (A), and

"(C) for the taxable year in which such distributions or amounts are received, pays, or is deemed to have paid, or accrues income, war profits, or excess profits taxes to a foreign country or to any possession of the United States with respect to such distributions or amounts,

the limitation under section 904 for the taxable year in which such distributions or amounts are received shall be increased by the lesser of the amount of such taxes paid, or deemed paid, or accrued with respect to such distributions or amounts or the amount in the excess limitation account as of the beginning of such taxable year.

"(2) EXCESS LIMITATION ACCOUNT.—

"(A) ESTABLISHMENT OF ACCOUNT.—Each taxpayer meeting the requirements of

paragraph (1)(A) shall establish an excess limitation account. The opening balance of such account shall be zero.

''(B) INCREASES IN ACCOUNT.—For each taxable year beginning after September 30, 1993, the taxpayer shall increase the amount in the excess limitation account by the excess (if any) of—

''(i) the amount by which the limitation under section 904(a) for such taxable year was increased by reason of the total amount of the inclusions in gross income under section 951(a) for such taxable year, over

''(ii) the amount of any income, war profits, and excess profits taxes paid, or deemed paid, or accrued to any foreign country or possession of the United States which were allowable as a credit under section 901 for such taxable year and which would not have been allowable but for the inclusions in gross income described in clause (i).

Proper reductions in the amount added to the account under the preceding sentence for any

taxable year shall be made for any increase in the credit allowable under section 901 for such taxable year by reason of a carryback if such increase would not have been allowable but for the inclusions in gross income described in clause (i).

''(C) DECREASES IN ACCOUNT.—For each taxable year beginning after September 30, 1993, for which the limitation under section 904 was increased under paragraph (1), the taxpayer shall reduce the amount in the excess limitation account by the amount of such increase.

''(3) DISTRIBUTIONS OF INCOME PREVIOUSLY TAXED IN YEARS BEGINNING BEFORE OCTOBER 1, 1993.—If the taxpayer receives a distribution or amount in a taxable year beginning after September 30, 1993, which is excluded from gross income under section 959(a) and is attributable to any amount included in gross income under section 951(a) for a taxable year beginning before October 1, 1993, the limitation under section 904 for the taxable year in which such amount or distribution is received shall be increased by the amount determined under this subsection as in effect on the day

before the date of the enactment of the Revenue Reconcilation Act of 1993.''

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after September 30, 1993.

Subpart B—Allocation of Research and Experimental Expenditures

SEC. 8234. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) GENERAL RULE.—Subparagraph (B) of section 864(f)(1) (relating to allocation of research and experimental expenditures) is amended by striking ''64 percent'' each place it appears and inserting ''50 percent''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 864 is amended by striking paragraph (5) and inserting the following new paragraphs:

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection, including regulations relating to the determination of whether any expenses are attributable to activities conducted in the United States or outside the United States and regulations providing such adjustments to the provisions of this subsection as may be appropriate

in the case of cost-sharing arrangements and contract research.

''(6) APPLICABILITY.—This subsection shall apply to the taxpayer's first taxable year (beginning on or before August 1, 1994) following the taxpayer's last taxable year to which Revenue Procedure 92–56 applies or would apply if the taxpayer elected the benefits of such Revenue Procedure.''

(2) Subparagraph (D) of section 864(f)(4) is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B) or (C)''.

Subpart C—Other Provisions

SEC. 8235. REPEAL OF CERTAIN EXCEPTIONS FOR WORKING CAPITAL.

(a) PROVISIONS RELATING TO OIL AND GAS INCOME.—

(1) AMENDMENTS TO SECTION 907.—

(A) Paragraph (1) of section 907(c) is amended by adding at the end thereof the following new flush sentence:

''Such term does not include any dividend or interest income which is passive income (as defined in section 904(d)(2)(A)).''.

(B) Paragraph (2) of section 907(c) is amended by adding at the end thereof the following new flush sentence:

''Such term does not include any dividend or interest income which is passive income (as defined in section 904(d)(2)(A)).''.

(2) SEPARATE APPLICATION OF FOREIGN TAX CREDIT.—Clause (iii) of section 904(d)(2)(A) is amended by inserting ''and'' at the end of subclause (II), by striking '', and'' at the end of subclause (III) and inserting a period, and by striking subclause (IV).

(3) TREATMENT UNDER SUBPART F.—

(A) Paragraph (1) of section 954(g) is amended by adding at the end thereof the following new flush sentence:

Such term shall not include any foreign personal holding company income (as defined in subsection (c)).''.

(B) Paragraph (8) of section 954(b) is amended by striking ''(1),''.

(b) TREATMENT OF SHIPPING INCOME.—Subsection (f) of section 954 is amended by adding at the end thereof the following new sentence: ''Such term shall not include any dividend or interest income which is foreign personal holding company income (as defined in subsection (c)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 8236. MODIFICATIONS OF ACCURACY-RELATED PENALTY.

(a) THRESHOLD REQUIREMENT.—Clause (ii) of section 6662(e)(1)(B) (relating to substantial valuation misstatement under chapter 1) is amended to read as follows:

> ''(ii) the net section 482 transfer price adjustment for the taxable year exceeds the lesser of $5,000,000 or 10 percent of the taxpayer's gross receipts.''

(b) CERTAIN ADJUSTMENTS EXCLUDED IN DETERMINING THRESHOLD.—Subparagraph (B) of section 6662(e)(3) is amended to read as follows:

> ''(B) CERTAIN ADJUSTMENTS EXCLUDED IN DETERMINING THRESHOLD.—For purposes of determining whether the threshold requirements of paragraph (1)(B)(ii) are met, the following shall be excluded:
>
> > ''(i) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to any redetermination of a price if—

''(I) it is established that the taxpayer determined such price in accordance with a specific pricing method set forth in the regulations prescribed under section 482 and that the taxpayer's use of such method was reasonable,

''(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such a method and which establishes that the use of such method was reasonable, and

''(III) the taxpayer provides such documentation to the Secretary within 30 days of a request for such documentation.

''(ii) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to a redetermination of price where such price was not determined in accordance with such a specific pricing method if—

''(I) the taxpayer establishes that none of such pricing methods was likely to result in a price that would clearly reflect income, the taxpayer used another pricing method to determine such price, and such other pricing method was likely to result in a price that would clearly reflect income,

''(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such other method and which establishes that the requirements of subclause (I) were satisfied, and

''(III) the taxpayer provides such documentation to the Secretary within 30 days of request for such documentation.

''(iii) Any portion of such net increase which is attributable to any transaction solely between foreign corporations unless, in the case of any such corporations, the

treatment of such transaction affects the determination of income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States.''

(c) COORDINATION WITH REASONABLE CAUSE EXCEPTION.—Paragraph (3) of section 6662(e) is amended by adding at the end thereof the following new subparagraph:

''(D) COORDINATION WITH REASONABLE CAUSE EXCEPTION.—For purposes of section 6664(c) the taxpayer shall not be treated as having reasonable cause for any portion of an underpayment attributable to a net section 482 transfer price adjustment unless such taxpayer meets the requirements of clause (i), (ii), or (iii) of subparagraph (B) with respect to such portion.''

(d) CONFORMING AMENDMENT.—Clause (iii) of section 6662(h)(2)(A) is amended to read as follows:

''(iii) in paragraph (1)(B)(ii)—

''(I) '$20,000,000' for '$5,000,000', and

"(II) '20 percent' for '10 percent'."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 8237. DENIAL OF PORTFOLIO INTEREST EXEMPTION FOR CONTINGENT INTEREST.

(a) GENERAL RULE.—

(1) Subsection (h) of section 871 (relating to repeal of tax on interest of nonresident alien individuals received from certain portfolio debt investments) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) PORTFOLIO INTEREST NOT TO INCLUDE CERTAIN CONTINGENT INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'portfolio interest' shall not include—

"(i) any interest if the amount of such interest is determined by reference to—

''(I) any receipts, sales or other cash flow of the debtor or a related person,

''(II) any income or profits of the debtor or a related person,

''(III) any change in value of any property of the debtor or a related person, or

''(IV) any dividend, partnership distributions, or similar payments made by the debtor or a related person, or

''(ii) any other type of contingent interest that is identified by the Secretary by regulation, where a denial of the portfolio interest exemption is necessary or appropriate to prevent avoidance of Federal income tax.

''(B) RELATED PERSON.—The term 'related person' means any person who is related to the debtor within the meaning of section 267(b) or 707(b)(1), or who is a party to any arrangement undertaken for a purpose of avoiding the application of this paragraph.

"(C) EXCEPTIONS.—Subparagraph (A)(i) shall not apply to—

"(i) any amount of interest solely by reason of the fact that the timing of any interest or principal payment is subject to a contingency,

"(ii) any amount of interest solely by reason of the fact that the interest is paid with respect to nonrecourse or limited recourse indebtedness,

"(iii) any amount of interest all or substantially all of which is determined by reference to any other amount of interest not described in subparagraph (A) (or by reference to the principal amount of indebtedness on which such other interest is paid),

"(iv) any amount of interest solely by reason of the fact that the debtor or a related person enters into a hedging transaction to reduce the risk of interest rate or currency fluctuations with respect to such interest,

"(v) any amount of interest determined by reference to—

"(I) changes in the value of property (including stock) that is actively traded (within the meaning of section 1092(d)) other than property described in section 897(c)(1) or (g),

"(II) the yield on property described in subclause (I), other than a debt instrument that pays interest described in subparagraph (A), or stock or other property that represents a beneficial interest in the debtor or a related person, or

"(III) changes in any index of the value of property described in subclause (I) or of the yield on property described in subclause (II), and

"(vi) any other type of interest identified by the Secretary by regulation.

"(D) EXCEPTION FOR CERTAIN EXISTING INDEBTEDNESS.—Subparagraph (A) shall not apply to any interest paid or accrued with respect to any indebtedness with a fixed term—

"(i) which was issued on or before April 7, 1993, or

''(ii) which was issued after such date pursuant to a written binding contract in effect on such date and at all times thereafter before such indebtedness was issued.''

(2) Subsection (c) of section 881 is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) PORTFOLIO INTEREST NOT TO INCLUDE CERTAIN CONTINGENT INTEREST.—For purposes of this subsection, the term 'portfolio interest' shall not include any interest which is treated as not being portfolio interest under the rules of section 871(h)(4).''

(b) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 871(h)(2)(B) is amended by striking ''paragraph (4)'' and inserting ''paragraph (5)''.

(2) Clause (ii) of section 881(c)(2)(B) is amended by striking ''section 871(h)(4)'' and inserting ''section 871(h)(5)''.

(3) Paragraph (6) of section 881(c) (as redesignated by subsection (a)) is amended by striking

''section 871(h)(5)'' each place it appears and inserting ''section 871(h)(6)''.

(4) Paragraph (9) of section 1441(c) is amended by striking ''section 871(h)(3)'' and inserting ''section 871(h)(3) or (4)''.

(5) Subsection (a) of section 1442 is amended—

(A) by striking ''871(h)(3)'' and inserting ''871(h)(3) or (4)'', and

(B) by striking ''881(c)(3)'' and inserting ''881(c)(3) or (4)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest received after December 31, 1993.

SEC. 8238. REGULATIONS DEALING WITH CONDUIT ARRANGEMENTS.

Section 7701 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

''(l) REGULATIONS RELATING TO CONDUIT ARRANGEMENTS.—The Secretary may prescribe regulations recharacterizing any multiple-party financing transaction as a transaction directly among any 2 or more of such parties where the Secretary determines that such

recharacterization is appropriate to prevent avoidance of any tax imposed by this title.''

SEC. 8239. TREATMENT OF EXPORT OF CERTAIN SOFTWOOD LOGS.

(a) FOREIGN SALES CORPORATIONS.—Paragraph (2) of section 927(a) (relating to exclusion of certain property) is amended by striking ''or'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', or'', and by adding at the end the following:

''(E) any unprocessed timber which is a softwood.

For purposes of subparagraph (E), the term 'unprocessed timber' means any log, cant, or similar form of timber.''

(b) DOMESTIC INTERNATIONAL SALES CORPORATIONS.—Paragraph (2) of section 993(c) (relating to exclusion of certain property) is amended—

(1) by striking ''or'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', or'', and by adding after subparagraph (D) the following new subparagraph:

''(E) any unprocessed timber which is a softwood.'', and

(2) by adding at the end the following new sentence: ''For purposes of subparagraph (E), the term 'unprocessed timber' means any log, cant, or similar form of timber.''

(c) SOURCE RULE.—Subsection (b) of section 865 (relating to source rules for personal property sales) is amended by adding at the end the following: ''Notwithstanding the preceding sentence, any income from the sale of any unprocessed timber which is a softwood and was cut from an area in the United States shall be sourced in the United States and the rules of sections 862(a)(6) and 863(b) shall not apply to any such income. For purposes of the preceding sentence, the term 'unprocessed timber' means any log, cant, or similar form of timber.''

(d) ELIMINATION OF DEFERRAL.—Subsection (d) of section 954 is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE FOR CERTAIN TIMBER PRODUCTS.—For purposes of subsection (a)(2), the term 'foreign base company sales income' includes any income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

''(A) the sale of any unprocessed timber referred to in section 865(b), or

"(B) the milling of any such timber outside the United States.

Subpart G shall not apply to any amount treated as subpart F income by reason of this paragraph."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales, exchanges, or other dispositions after the date of the enactment of this Act.

PART IV—TRANSPORTATION FUELS PROVISIONS

Subpart A—Transportation Fuels Tax

SEC. 8241. TRANSPORTATION FUELS TAX.

(a) GASOLINE.—

(1) IN GENERAL.—Clause (iii) of section 4081(a)(2)(B) (relating to rates of tax) is amended to read as follows:

"(iii) the deficit reduction rate is 6.8 cents a gallon (4.3 cents a gallon on and after October 1, 1995)."

(2) DEFICIT REDUCTION RATE MADE PERMANENT.—Section 4081(d) (relating to termination) is amended by striking paragraph (3).

(b) DIESEL FUEL AND AVIATION FUEL.—

(1) DIESEL FUEL.—

(A) IN GENERAL.—Paragraph (4) of section 4091(b) (relating to rate of tax) is amended by striking "2.5 cents per gallon" and in-

serting ''6.8 cents per gallon (4.3 cents per gallon on and after October 1, 1995)''.

(B) DIESEL FUEL DEFICIT REDUCTION RATE MADE PERMANENT.—Section 4091(b)(6) (relating to termination) is amended by striking subparagraph (D).

(2) AVIATION FUEL.—

(A) IN GENERAL.—Clause (ii) of section 4091(b)(1)(A) (relating to rate of tax) is amended by inserting ''and the aviation fuel deficit reduction rate'' after ''rate''.

(B) AVIATION FUEL DEFICIT REDUCTION RATE.—Subsection (b) of section 4091 is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

''(6) AVIATION FUEL DEFICIT REDUCTION RATE.—For purposes of paragraph (1), the aviation fuel deficit reduction rate is 4.3 cents per gallon.''

(C) NONGASOLINE IN NONCOMMERCIAL AVIATION.—Paragraph (1) of section 4041(c) (relating to noncommercial aviation) is amended by striking ''of 17.5 cents a gallon upon'' and inserting ''at a rate equal to the sum of the Air-

port and Airway Trust Fund financing rate plus the aviation fuel deficit reduction rate on''.

(D) GASOLINE IN NONCOMMERCIAL AVIATION.—Paragraph (3) of section 4041(c) is amended to read as follows:

''(3) RATE OF TAX.—The rate of tax imposed by paragraph (2) on any gasoline is 1 cent.''

(3) CONFORMING AMENDMENTS.—

(A) Subparagraphs (A) and (B) of section 4093(c)(2) are amended to read as follows:

''(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—In the case of fuel sold for use in a diesel-powered train, paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the diesel fuel deficit reduction rate imposed under such section. The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

''(B) NO REFUND OF CERTAIN TAXES ON FUEL USED IN AIRCRAFT.—In the case of fuel sold for use in any aircraft (except supplies for vessels or aircraft within the meaning of section

4221(d)(3)), paragraph (1) also shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the aviation fuel deficit reduction rate imposed by such section. The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.''

(B) Section 4093(d) is amended by inserting ''and the aviation fuel deficit reduction rate'' after ''rate''.

(c) SPECIAL FUELS.—Section 4041(m)(1)(A) is amended by striking ''1.25 cents'' and inserting ''5.55 cents (4.3 cents on and after October 1, 1995)''.

(d) FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.—

(1) IN GENERAL.—Section 4042(b)(1) (relating to amount of tax) is amended—

(A) by striking ''and'' at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting '', and'', and

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

''(C) the deficit reduction rate.''

(2) RATE.—Section 4042(b)(2) (relating to rates) is amended by adding at the end the following new subparagraph:

''(C) The deficit reduction rate is 4.3 cents per gallon.''

(e) CONFORMING AMENDMENTS.—

(1) Section 6421(f) is amended—

(A) by striking subparagraph (B) of paragraph (2) and inserting the following:

''(B) in aviation which is not noncommercial aviation (as so defined) with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate and at the deficit reduction rate to the extent such deficit reduction rate does not exceed 4.3 cents per gallon.'', and

(B) by inserting ''and at the deficit reduction rate to the extent such deficit reduction rate does not exceed 4.3 cents per gallon'' after ''financing rate'' in paragraph (3), and

(C) by inserting ''AND DEFICIT REDUCTION TAX'' after ''TAX'' in the heading for paragraph (3).

(2) Section 6427(l) is amended by striking paragraphs (3) and (4) and inserting the following new paragraphs:

''(3) NO REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the diesel fuel deficit reduction rate imposed by such section. The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

''(4) NO REFUND OF CERTAIN TAXES ON FUEL USED IN AIRCRAFT.—In the case of fuel used in any aircraft (except supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) also shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the aviation fuel deficit reduction rate imposed by such section. The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.''

(3) Section 9502(b) is amended—

(A) by striking ''subsections (c) and (e) of section 4041'' in paragraph (1) and inserting ''sections 4041(c)(1) (to the extent attributable to the Airport and Airway Trust Fund financing rate), 4041(c)(2), and 4041(e)'', and

(B) by striking ''the deficit reduction rate'' in paragraph (2) and inserting ''so much of the deficit reduction rate as exceeds 4.3 cents per gallon''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1993.

(g) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—In the case of gasoline, diesel fuel, and aviation fuel on which tax was imposed under section 4081 or 4091 of the Internal Revenue Code of 1986 before October 1, 1993, and which is held on such date by any person, there is hereby imposed a floor stocks tax of 4.3 cents per gallon on such gasoline, diesel fuel, and aviation fuel.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding gasoline, diesel fuel, or aviation fuel on October 1, 1993, to which the tax imposed by

paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before November 30, 1993.

(3) DEFINITIONS.—For purposes of this subsection—

(A) HELD BY A PERSON.—Gasoline, diesel fuel, and aviation fuel shall be considered as ''held by a person'' if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) GASOLINE.—The term ''gasoline'' has the meaning given such term by section 4082 of such Code.

(C) DIESEL FUEL.—The term ''diesel fuel'' has the meaning given such term by section 4092 of such Code.

(D) AVIATION FUEL.—The term ''aviation fuel'' has the meaning given such term by section 4092 of such Code.

(E) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or his delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to gasoline, diesel fuel, or aviation fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 or 4091 of such Code, as the case may be, is allowable for such use.

(5) EXCEPTION FOR FUEL HELD IN VEHICLE TAX.—No tax shall be imposed by paragraph (1) on gasoline or diesel fuel held in the tank of a motor vehicle or motorboat.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1)—

(i) on gasoline held on October 1, 1993, by any person if the aggregate amount of gasoline held by such person on such date does not exceed 4,000 gallons, and

(ii) on diesel fuel or aviation fuel held on October 1, 1993, by any person if the

aggregate amount of diesel fuel or aviation fuel held by such person on such date does not exceed 2,000 gallons.

The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term ''controlled group'' has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase ''more than 50 percent''

shall be substituted for the phrase ''at least 80 percent'' each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(7) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code in the case of gasoline and section 4091 of such Code in the case of diesel fuel shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081 or 4091.

Subpart B—Modifications to Tax on Diesel Fuel

SEC. 8242. MODIFICATIONS TO TAX ON DIESEL FUEL.

(a) IN GENERAL.—Subparts A and B of part III of subchapter A of chapter 32 (relating to manufacturers ex-

cise taxes), as amended by subpart A, are amended to read as follows:

"Subpart A—Gasoline and Diesel Fuel

''Sec. 4081. Imposition of tax.
''Sec. 4082. Exemptions for diesel fuel.
''Sec. 4083. Definitions and special rule.
''Sec. 4084. Cross references.

"SEC. 4081. IMPOSITION OF TAX.

''(a) TAX IMPOSED.—

''(1) TAX ON REMOVAL, ENTRY, OR SALE.—

''(A) IN GENERAL.—There is hereby imposed a tax at the rate specified in paragraph (2) on—

''(i) the removal of a taxable fuel from any refinery,

''(ii) the removal of a taxable fuel from any terminal,

''(iii) the entry into the United States of any taxable fuel for consumption, use, or warehousing, and

''(iv) the sale of a taxable fuel to any person who is not registered under section 4101 unless there was a prior taxable removal or entry of such fuel under clause (i), (ii), or (iii).

''(B) EXEMPTION FOR BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.—

The tax imposed by this paragraph shall not apply to any removal or entry of a taxable fuel transferred in bulk to a terminal or refinery if the person removing or entering the taxable fuel and the operator of such terminal or refinery are registered under section 4101.

''(2) RATES OF TAX.—

''(A) IN GENERAL.—The rate of the tax imposed by this section is the sum of—

''(i) the Highway Trust Fund financing rate,

''(ii) the Leaking Underground Storage Tank Trust Fund financing rate, and

''(iii) the deficit reduction rate.

''(B) RATES.—For purposes of subparagraph (A)—

''(i) the Highway Trust Fund financing rate is—

''(I) 11.5 cents per gallon in the case of gasoline, and

''(II) 17.5 cents per gallon in the case of diesel fuel,

''(ii) the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon, and

"(iii) the deficit reduction rate is 6.8 cents per gallon (4.3 cents per gallon on and after October 1, 1995).

"(b) TREATMENT OF REMOVAL OR SUBSEQUENT SALE BY BLENDER.—

"(1) IN GENERAL.—There is hereby imposed a tax at the rate specified in subsection (a) on taxable fuel removed or sold by the blender thereof.

"(2) CREDIT FOR TAX PREVIOUSLY PAID.—If—

"(A) tax is imposed on the removal or sale of a taxable fuel by reason of paragraph (1), and

"(B) the blender establishes the amount of the tax paid with respect to such fuel by reason of subsection (a),

the amount of the tax so paid shall be allowed as a credit against the tax imposed by reason of paragraph (1).

"(c) TAXABLE FUELS MIXED WITH ALCOHOL AT REFINERY, ETC.—

"(1) REDUCED RATES.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, subsection (a) shall be applied by substituting rates which are the applicable fraction of the otherwise applicable

rates in the case of the removal or entry of any taxable fuel for use in producing at the time of such removal or entry a qualified alcohol mixture. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing such a mixture after the time of such removal or entry.

''(B) APPLICABLE FRACTION.—For purposes of subparagraph (A), the applicable fraction is—

''(i) in the case of a qualified alcohol mixture which contains gasoline, the fraction the numerator of which is 10 and the denominator of which is—

''(I) 9 in the case of 10 percent gasohol,

''(II) 9.23 in the case of 7.7 percent gasohol, and

''(III) 9.43 in the case of 5.7 percent gasohol, and

''(ii) in the case of a qualified alcohol mixture which does not contain gasoline, 10/9.

"(2) LATER SEPARATION OF FUEL FROM QUALIFIED ALCOHOL MIXTURE.—If any person separates the taxable fuel from a qualified alcohol mixture on which tax was imposed under subsection (a) at the otherwise applicable Highway Trust Fund financing rate (or its equivalent) by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the refiner of such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.

"(3) ALCOHOL; QUALIFIED ALCOHOL MIXTURE.—For purposes of this subsection—

"(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal (including peat). Such term does not include alcohol with a proof of less than 190 (determined without regard to any added denaturants).

"(B) QUALIFIED ALCOHOL MIXTURE.—The term 'qualified alcohol mixture' means—

''(i) any mixture of gasoline with alcohol if at least 5.7 percent of such mixture is alcohol, and

''(ii) any mixture of diesel fuel with alcohol if at least 10 percent of such mixture is alcohol.

''(4) OTHERWISE APPLICABLE RATES FOR GASOLINE MIXTURES.—For purposes of this subsection—

''(A) IN GENERAL.—In the case of the Highway Trust Fund financing rate, the otherwise applicable rate for gasoline in a qualified alcohol mixture is—

''(i) 6.1 cents a gallon for 10 percent gasohol,

''(ii) 7.342 cents a gallon for 7.7 percent gasohol, and

''(iii) 8.422 cents a gallon for 5.7 percent gasohol.

In the case of a mixture none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting '5.5 cents' for '6.1 cents', '6.88 cents' for '7.342 cents', and '8.08 cents' for '8.422 cents'.

"(B) 10 PERCENT GASOHOL.—The term '10 percent gasohol' means any mixture of gasoline with alcohol if at least 10 percent of such mixture is alcohol.

"(C) 7.7 PERCENT GASOHOL.—The term '7.7 percent gasohol' means any mixture of gasoline with alcohol if at least 7.7 percent, but not 10 percent or more, of such mixture is alcohol.

"(D) 5.7 PERCENT GASOHOL.—The term '5.7 percent gasohol' means any mixture of gasoline with alcohol if at least 5.7 percent, but not 7.7 percent or more, of such mixture is alcohol.

"(5) OTHERWISE APPLICABLE RATES FOR DIESEL FUEL MIXTURES.—For purposes of this subsection, in the case of the Highway Trust Fund financing rate, the otherwise applicable rate for diesel fuel in a qualified alcohol mixture is 12.1 cents per gallon (11.5 cents per gallon in the case of a qualified alcohol mixture none of the alcohol in which consists of ethanol).

"(6) TERMINATION.—Paragraph (1) shall not apply to any removal or sale after September 30, 2000.

''(d) TERMINATION.—

''(1) HIGHWAY TRUST FUND FINANCING RATE.—On and after October 1, 1999, the Highway Trust Fund financing rate under subsection (a)(2) shall not apply.

''(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1995.

''(e) REFUNDS IN CERTAIN CASES.—Under regulations prescribed by the Secretary, if any person who paid the tax imposed by this section with respect to any taxable fuel establishes to the satisfaction of the Secretary that a prior tax was paid (and not credited or refunded) with respect to such taxable fuel, then an amount equal to the tax paid by such person shall be allowed as a refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

"SEC. 4082. EXEMPTIONS FOR DIESEL FUEL.

''(a) IN GENERAL.—Except as provided in subsection (d), the tax imposed by section 4081 shall not apply to diesel fuel—

''(1) which the Secretary determines is destined for a nontaxable use, and

''(2) which is indelibly dyed in accordance with regulations which the Secretary shall prescribe.

Such regulations shall allow an individual choice of dye color approved by the Secretary or chosen from any list of approved dye colors that the Secretary may publish.

''(b) NONTAXABLE USE.—For purposes of this section, the term 'nontaxable use' means—

''(1) any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of the imposition of tax on any sale thereof,

''(2) any use in a train, and

''(3) any use described in section 6427(b)(1).

''(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this section, including regulations requiring the conspicuous labeling of retail diesel fuel pumps and other delivery facilities to assure that persons are aware of which fuel is available only for nontaxable uses.

''(d) CROSS REFERENCE.—

"For tax on train, motorboat, and certain bus uses of fuel purchased tax-free, see section 4041(a)(1).

"SEC. 4083. DEFINITIONS AND SPECIAL RULE.

''(a) TAXABLE FUEL.—For purposes of this subpart—

''(1) IN GENERAL.—The term 'taxable fuel' means—

''(A) gasoline, and

''(B) diesel fuel.

''(2) GASOLINE.—The term 'gasoline' includes, to the extent prescribed in regulations—

''(A) gasoline blend stocks, and

''(B) products commonly used as additives in gasoline.

For purposes of subparagraph (A), the term 'gasoline blend stock' means any petroleum product component of gasoline.

''(3) DIESEL FUEL.—The term 'diesel fuel' means any liquid (other than gasoline) which is suitable for use as a fuel in a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat.

''(b) CERTAIN USES DEFINED AS REMOVAL.—If any person uses taxable fuel (other than in the production of gasoline, diesel fuel, or special fuels referred to in section 4041), such use shall for the purposes of this chapter be considered a removal.

"SEC. 4084. CROSS REFERENCES.

"(1) For provisions to relieve farmers from excise tax in the case of gasoline used on the farm for farming purposes, see section 6420.

"(2) For provisions to relieve purchasers of gasoline from excise tax in the case of gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes, see section 6421.

"(3) For provisions to relieve purchasers from excise tax in the case of taxable fuel not used for taxable purposes, see section 6427.

"Subpart B—Aviation Fuel

''Sec. 4091. Imposition of tax.
''Sec. 4092. Exemptions.
''Sec. 4093. Definitions.

"SEC. 4091. IMPOSITION OF TAX.

''(a) TAX ON SALE.—

''(1) IN GENERAL.—There is hereby imposed a tax on the sale of aviation fuel by the producer or the importer thereof or by any producer of aviation fuel.

''(2) USE TREATED AS SALE.—For purposes of paragraph (1), if any producer uses aviation fuel (other than for a nontaxable use as defined in section 6427(l)(2)(B)) on which no tax has been imposed under such paragraph, then such use shall be considered a sale.

''(b) RATE OF TAX.—

''(1) IN GENERAL.—The rate of the tax imposed by subsection (a) shall be the sum of—

"(A) the Airport and Airway Trust Fund financing rate,

"(B) the Leaking Underground Storage Tank Trust Fund financing rate, and

"(C) the deficit reduction rate.

"(2) AIRPORT AND AIRWAY TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Airport and Airway Trust Fund financing rate is 17.5 cents per gallon.

"(3) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon.

"(4) DEFICIT REDUCTION RATE.—For purposes of paragraph (1), the deficit reduction rate is 4.3 cents per gallon.

"(5) TERMINATION OF RATES.—

"(A) The Airport and Airway Trust Fund financing rate shall not apply on and after January 1, 1996.

"(B) The Leaking Underground Storage Tank Fund financing rate shall not apply during any period during which the Leaking Un-

derground Storage Tank Trust Fund financing rate under section 4081 does not apply.

''(c) REDUCED RATE OF TAX FOR AVIATION FUEL IN ALCOHOL MIXTURE, ETC.—

''(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall be—

''(A) 4.1 cents per gallon in the case of the sale of any mixture of aviation fuel if—

''(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

''(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and

''(B) 4.56 cents per gallon in the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be 1/9 cent per gallon and the deficit reduction rate shall be 10/9 of such rate.

''(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under

subsection (a) at the Airport and Airway Trust Fund financing rate equivalent to 4.1 cents per gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel.

''(3) TERMINATION.—Paragraph (1) shall not apply to any sale after September 30, 2000.

''(d) LOWER RATES OF TAX ON ALCOHOL MIXTURES NOT MADE FROM ETHANOL.—In the case of a mixture described in subsection (c)(1)(A)(i) none of the alcohol in which is ethanol—

''(1) subsections (c)(1)(A) and (c)(2) shall each be applied by substituting rates which are 0.6 cents less than the rates contained therein, and

''(2) subsection (c)(1)(B) shall be applied by substituting rates which are 10/9 of the rates determined under paragraph (1).

''SEC. 4092. EXEMPTIONS.

''(a) NONTAXABLE USES.—The Airport and Airway Trust Fund financing rate under section 4091 shall not

apply to aviation fuel sold by a producer or importer for use by the purchaser in a nontaxable use (as defined in section 6427(l)(2)(B)).

''(b) SALES TO PRODUCER.—Under regulations prescribed by the Secretary, the tax imposed by section 4091 shall not apply to aviation fuel sold to a producer of such fuel.

''(c) SUPPLIES FOR VESSELS AND AIRCRAFT.—The Leaking Underground Storage Tank Trust Fund financing rate and the deficit reduction rate under section 4091 shall not apply to aviation fuel sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)).

''SEC. 4093. DEFINITIONS.

''(a) AVIATION FUEL.—For purposes of this subpart, the term 'aviation fuel' means any liquid (other than any product taxable under section 4081) which is suitable for use as a fuel in an aircraft.

''(b) PRODUCER.—For purposes of this subpart—

''(1) CERTAIN PERSONS TREATED AS PRODUCERS.—

''(A) IN GENERAL.—The term 'producer' includes any person described in subparagraph (B) and registered under section 4101 with respect to the tax imposed by section 4091.

"(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

"(i) a refiner, blender, or wholesale distributor of aviation fuel, or

"(ii) a dealer selling aviation fuel exclusively to producers of aviation fuel.

"(C) REDUCED RATE PURCHASERS TREATED AS PRODUCERS.—Any person to whom aviation fuel is sold at a reduced rate under this subpart shall be treated as the producer of such fuel.

"(2) WHOLESALE DISTRIBUTOR.—For purposes of paragraph (1), the term 'wholesale distributor' includes any person who sells aviation fuel to producers, retailers, or to users who purchase in bulk quantities and deliver into bulk storage tanks. Such term does not include any person who (excluding the term 'wholesale distributor' from paragraph (1)) is a producer or importer."

(b) CIVIL PENALTY FOR USING REDUCED-RATE FUEL FOR TAXABLE USE.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is

amended by adding at the end thereof the following new section:

"SEC. 6714. DYED FUEL SOLD FOR USE OR USED IN TAXABLE USE.

''(a) IMPOSITION OF PENALTY.—If any dyed fuel—

''(1) is sold or held for sale by any person for any use which such person knows or has reason to know is not a reduced-tax use of such fuel, or

''(2) is used by any person for a use other than a reduced-tax use and such person knew, or had reason to know, that such fuel was so dyed,

then, in addition to the tax, such person shall pay a penalty on such sale or use.

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) on any sale or use shall be the greater of—

''(1) $1,000, or

''(2) an amount equal to twice the excess of the aggregate taxes which should have been imposed under section 4081 on the fuel so sold or used over the prior taxes (if any) imposed on such fuel under such section which have not been credited or refunded.

''(c) DEFINITIONS.—For purposes of this section—

"(1) DYED FUEL.—The term 'dyed fuel' means diesel fuel dyed in accordance with section 4082.

"(2) REDUCED-TAX USE.—The term 'reduced-tax use' means, with respect to any fuel, the use for which such fuel was dyed."

(2) CLERICAL AMENDMENT.—The table of sections for such part I is amended by adding at the end thereof the following new item:

"Sec. 6714. Dyed fuel sold for use or used in taxable use."

(c) REGISTERED VENDORS TO ADMINISTER CLAIMS FOR REFUND OF DIESEL FUEL.—Section 6427(l) (relating to nontaxable uses of diesel fuel and aviation fuel) is amended by adding at the end the following new paragraph:

"(5) REGISTERED VENDORS TO ADMINISTER CLAIMS FOR REFUND OF DIESEL FUEL SOLD TO FARMERS AND STATE AND LOCAL GOVERNMENTS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the ultimate purchaser of undyed diesel fuel used on a farm for farming purposes (within the meaning of section 6420(c)) or for the exclusive use of a State or local government.

"(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—The amount which would have otherwise been paid under paragraph (1)

(without regard to subparagraph (A)) shall be paid to the ultimate vendor of such fuel, if such vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of section 6416(a).''

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 40 is amended by striking '', section 4081(c), or section 4091(c)'' and inserting ''or section 4081(c)''.

(2) Subsection (a) of section 4101 is amended by striking ''4081'' and inserting ''4041(a)(1), 4081,''.

(3) Section 4102 is amended by striking ''gasoline'' and inserting ''any taxable fuel (as defined in section 4083)''.

(4) Paragraph (1) of section 4041(a), as amended by subtitle A, is amended to read as follows:

''(1) TAX ON DIESEL FUEL IN CERTAIN CASES.—

''(A) IN GENERAL.—There is hereby imposed a tax on any liquid other than gasoline (as defined in section 4083)—

"(i) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat for use as a fuel in such vehicle, train, or boat, or

"(ii) used by any person as a fuel in a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat unless there was a taxable sale of such fuel under clause (i).

"(B) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this paragraph on the sale or use of diesel fuel if there was a taxable removal of such fuel under section 4081 and the tax thereon was not credited or refunded.

"(C) RATE OF TAX.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate on diesel fuel and the deficit reduction rate in effect under section 4081 at the time of such sale or use.

''(ii) CERTAIN RATES NOT TO APPLY TO TRAINS.—

''(I) HIGHWAY TRUST FUND FINANCING RATE.—The Highway Trust Fund financing rate shall not apply to any sale for use, or use, of fuel in a train.

''(II) DEFICIT REDUCTION RATE.—The deficit reduction rate shall not apply to any sale for use, or use, of fuel in a train if such fuel is used by a State or any political subdivision thereof

''(iii) CERTAIN BUS USES.—If the limitation in section 6427(b)(2)(A) applies to fuel sold for use or used in an automobile bus, the Highway Trust Fund financing rate shall be 3 cents per gallon and so much of the deficit reduction rate as exceeds 4.3 cents per gallon shall not apply.''

(5) Paragraph (2) of section 4041(a), as amended by subtitle A, is amended by striking ''or paragraph (1) of this subsection'' and by inserting ''on gasoline'' after ''Highway Trust Fund financing rate''.

(6) Paragraph (1) of section 4041(c), as amended by subpart A, is amended by striking ''the aviation fuel deficit reduction rate'' and inserting ''the deficit reduction rate imposed under section 4091 on''.

(7) Paragraph (2) of section 4041(c) is amended by striking ''any product taxable under section 4081'' and inserting ''gasoline (as defined in section 4083)''.

(8) Paragraph (2) of section 4041(d) is amended—

(A) by striking ''(other than a product taxable under section 4081)'' and inserting ''(other than gasoline (as defined in section 4083))'', and

(B) by striking ''section 4091'' and inserting ''section 4081''.

(9) Paragraph (3) of section 4041(d) is amended by striking ''(other than any product taxable under section 4081)'' and inserting ''(other than gasoline (as defined in section 4083))''.

(10) Subparagraph (A) of section 4041(k)(1) is amended by striking ''sections 4081(c) and 4091(c), as the case may be'' and inserting ''section 4081(c)''.

(11) Subparagraph (B) of section 4041(m)(1) is amended by striking ''section 4091(d)(1)'' and inserting ''section 4091(c)(1)''.

(12) Section 6206 is amended by striking ''4041 or 4091'' and inserting ''4041, 4081, or 4091''.

(13) The heading for subsection (f) of section 6302 is amended by inserting ''AND DIESEL FUEL'' after ''GASOLINE''.

(14) Paragraph (1) of section 6412(a) is amended by striking ''gasoline'' each place it appears (including the heading) and inserting ''taxable fuel''.

(15)(A) Subparagraph (A) of section 6416(a)(4) is amended by striking ''product'' each place it appears and inserting ''gasoline''.

(B) Subparagraph (B) of section 6416(a)(4) is amended by striking all that follows ''substituting'' and inserting '''any gasoline taxable under section 4081' for 'aviation fuel' therein).''

(16) The third sentence of section 6416(b)(2) is amended by inserting ''any tax imposed under section 4081 on diesel fuel and'' after ''in the case of''.

(17) Sections 6420(c)(5) and 6421(e)(1) are each amended by striking ''section 4082(b)'' and inserting ''section 4083(a)''.

(18) Section 6421(e)(2)(B)(iv), as added in subtitle A, is amended

(A) by striking ''4091'' both places it appears and inserting ''4081'', and

(B) by striking ''diesel fuel deficit'' in subclause (I) and inserting ''deficit''.

(19) Subsection (b) of section 6427 is amended—

(A) by striking ''if any fuel'' in paragraph (1) and inserting ''if any fuel other than gasoline (as defined in section 4083(a))'', and

(B) by striking ''4091'' each place it appears and inserting ''4081''.

(20)(A) Paragraph (1) of section 6427(f) is amended by striking '', 4091(c)(1)(A), or 4091(d)(1)(A)'' and inserting ''or 4091(c)(1)(A)''.

(B) Paragraph (2) of section 6427(f) is amended to read as follows:

''(2) DEFINITIONS.—For purposes of paragraph (1)—

''(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

''(i) in the case of gasoline or diesel fuel, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof, and

''(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 determined without regard to subsection (c) thereof.

''(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

''(i) in the case of gasoline or diesel fuel, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof, and

''(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof.''

(21) Subsection (h) of section 6427 is amended by striking ''section 4082(b)'' and inserting ''section 4083(a)(2)''.

(22) Paragraph (3) of section 6427(i) is amended—

(A) by striking ''GASOHOL'' in the heading and inserting ''ALCOHOL MIXTURE'', and

(B) by striking ''gasoline used to produce gasohol (as defined in section 4081(c)(1))'' in subparagraph (A) and inserting ''gasoline or diesel fuel used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))''.

(23) The heading of paragraph (4) of section 6427(i) is amended by inserting ''4081 OR'' before ''4091''.

(24) Subsection (l) of section 6427, as amended by subpart A, is amended to read as follows:

''(l) NONTAXABLE USES OF DIESEL FUEL AND AVIATION FUEL.—

''(1) IN GENERAL.—Except as provided in subsection (k) and in paragraphs (3) and (4) of this subsection, if—

''(A) any diesel fuel on which tax has been imposed by section 4081, or

''(B) any aviation fuel on which tax has been imposed by section 4091,

is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4081 or 4091, as the case may be.

''(2) NONTAXABLE USE.—For purposes of this subsection, the term 'nontaxable use' means—

''(A) in the case of diesel fuel, any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of the imposition of tax on any sale thereof, and

''(B) in the case of aviation fuel, any use which is exempt from the tax imposed by section 4041(c)(1) other than by reason of the imposition of tax on any sale thereof.

''(3) NO REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—Fuel used in a diesel-powered train shall be treated as a nontaxable use for purposes of this section, except that paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the deficit reduction rate imposed by such section, unless such fuel was used by a State or any political subdivision thereof.

''(4) NO REFUND OF CERTAIN TAXES ON FUELS USED IN AIRCRAFT.—In the case of fuel used in any aircraft (other than as supplies for vessels or aircraft, within the meaning of section 4221(d)(3)), paragraph (1) also shall not apply to so much of the

tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the deficit reduction rate imposed by such section. The preceding sentence shall not apply if such fuel was used by a State or any political subdivision thereof.''

(25) Paragraph (1) of section 9503(b) is amended—

(A) by striking ''gasoline),'' in subparagraph (E) and inserting ''gasoline and diesel fuel), and'',

(B) by striking subparagraph (F), and

(C) by redesignating subparagraph (G) as subparagraph (F).

(26)(A) Subparagraph (B) of section 9503(b)(4) is amended by striking '', 4081, and 4091'' and inserting ''and 4081''.

(B) Subparagraph (C) of section 9503(b)(4), as amended by subtitle A, is amended by striking ''4091'' and inserting ''4081''.

(27) Subparagraph (D) of section 9503(c)(6) is amended by striking '', 4081, and 4091'' and inserting ''and 4081''.

(28) Paragraph (2) of section 9503(e) is amended—

(A) by striking ‘‘, 4081, and 4091’’ and inserting ‘‘and 4081’’, and

(B) by striking ‘‘, 4081, or 4091’’ and inserting ‘‘or 4081’’.

(29) Subsection (b) of section 9508 is amended—

(A) by inserting ‘‘and diesel fuel’’ after ‘‘gasoline’’ in paragraph (2),

(B) by striking ‘‘diesel fuel and’’ in paragraph (3), and

(C) by striking ‘‘4091’’ in the last sentence, as added by subtitle A, and inserting ‘‘4081’’.

(30) The table of subparts for part III of subchapter A of chapter 32 is amended by striking the items relating to subparts A and B and inserting the following new items:

‘‘Subpart A. Gasoline and diesel fuel.
‘‘Subpart B. Aviation fuel.’’

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1994.

SEC. 8243. FLOOR STOCKS TAX.

(a) IN GENERAL.—There is hereby imposed a floor stocks tax on diesel fuel held by any person on January 1, 1994, if—

(1) no tax was imposed on such fuel under section 4041(a) or 4091 of the Internal Revenue Code of 1986 as in effect on the day before the date of the enactment of this Act, and

(2) tax would have been imposed by section 4081 of such Code, as amended by this Act, on any prior removal, entry, or sale of such fuel had such section 4081 applied to such fuel for periods before such date of enactment.

(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be the amount of tax which would be imposed under section 4081 of the Internal Revenue Code of 1986 if there were a taxable sale of such fuel on such date.

(c) LIABILITY AND PAYMENT OF TAX.—

(1) LIABILITY FOR TAX.—A person holding the diesel fuel on January 1, 1994, to which the tax imposed by this section applies shall be liable for such tax.

(2) METHOD OF PAYMENT.—The tax imposed by this section shall be paid in such manner as the Secretary shall prescribe.

(3) TIME FOR PAYMENT.—The tax imposed by this section shall be paid on or before July 31, 1994.

(d) DEFINITIONS.—For purposes of this section—

(1) DIESEL FUEL.—The term ''diesel fuel'' has the meaning given such term by section 4083(a) of such Code.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or his delegate.

(e) EXCEPTIONS.—

(1) PERSONS ENTITLED TO CREDIT OR REFUND.—The tax imposed by this section shall not apply to fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 is allowable for such use.

(2) COMPLIANCE WITH DYEING REQUIRED.—Paragraph (1) shall not apply to the holder of any fuel if the holder of such fuel fails to comply with any requirement imposed by the Secretary with respect to dyeing.

(f) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this section, apply with respect to the floor stock taxes imposed by this section to the same extent as if such taxes were imposed by such section 4081.

Subpart C—Extension of Motor Fuel Tax Rates; Increased Deposits Into Highway Trust Fund

SEC. 8244. EXTENSION OF MOTOR FUEL TAX RATES; INCREASED DEPOSITS INTO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Clause (i) of section 4081(a)(2)(B), as amended by subpart B, is amended—

(1) by striking ''11.5 cents'' and inserting ''14 cents'', and

(2) by striking ''17.5 cents'' and inserting ''20 cents''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 4081(c)(4), as so amended, is amended to read as follows:

''(A) IN GENERAL.—In the case of the Highway Trust Fund financing rate, the otherwise applicable rate for gasoline in a qualified alcohol mixture is—

''(i) 8.6 cents a gallon for 10 percent gasohol,

''(ii) 9.842 cents a gallon for 7.7 percent gasohol, and

''(iii) 10.922 cents a gallon for 5.7 percent gasohol.

In the case of a mixture none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be

applied by substituting ‘8.0 cents’ for ‘8.6 cents’, ‘9.38 cents’ for ‘9.842 cents’, and ‘10.58 cents’ for ‘10.922’.’’

(2) Paragraph (5) of section 4081(c), as so amended, is amended—

(A) by striking ‘‘12.1 cents’’ and inserting ‘‘14.6 cents’’, and

(B) by striking ‘‘11.5 cents’’ and inserting ‘‘14.0’’.

(3) Subparagraph (A) of section 4041(m)(1), as amended by subpart A, is amended to read as follows:

‘‘(A) under subsection (a)(2) the Highway Trust Fund financing shall be 7 cents per gallon and the deficit reduction rate shall be 4.3 cents per gallon, and’’.

(4) Clause (ii) of section 4041(a)(1)(C), as so amended, is amended—

(A) by striking ‘‘The Highway Trust Fund financing rate’’ and inserting ‘‘So much of the Highway Trust Fund financing rate as exceeds 2.5 cents per gallon’’, and

(B) by striking ‘‘HIGHWAY RATE’’ in the heading and inserting ‘‘PORTION OF HIGHWAY RATE’’.

(5) Paragraph (4) of section 6427(l), as amended by subpart B, is amended—

(A) by inserting ''2.5 cents per gallon of the Highway Trust Fund financing rate and'' after ''attributable to'', and

(B) by striking ''DEFICIT REDUCTION TAX'' in the heading and inserting ''PORTION OF TAX''.

(6) Subsection (b) of section 9503 is amended by adding at the end thereof the following new paragraph:

''(6) RETENTION OF CERTAIN TAXES IN GENERAL FUND.—

''(A) IN GENERAL.—There shall not be taken into account under paragraphs (1) and (2)—

''(i) the tax imposed by section 4081 on diesel fuel used in any train, and

''(ii) so much of the following taxes as are attributable to 2.5 cents of the Highway Trust Fund financing rate:

''(I) Motorboat fuel taxes (as defined in subsection (c)(4)(D)).

''(II) Small-engine fuel taxes (as defined in subsection (c)(5)(B)).

''(III) Nonhighway recreational fuel taxes (as defined in subsection (c)(6)(D)).

''(B) TRANSFERS FROM HIGHWAY TRUST FUND.—For purposes of determining the amount paid from the Highway Trust Fund under paragraphs (4), (5), and (6) of subsection (c), the Highway Trust Fund financing rates shall be treated as being 2.5 cents less than the otherwise applicable rates.''

(c) INCREASE IN DEPOSITS IN MASS TRANSIT ACCOUNT.—Paragraph (2) of section 9503(e) is amended by striking ''1.5 cents'' and inserting ''2 cents''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1995, but the amendment made by subsection (c) shall apply only to amounts attributable to taxes imposed on or after such date.

PART V—COMPLIANCE PROVISIONS

SEC. 8251. REPORTING REQUIRED FOR CERTAIN PAYMENTS TO CORPORATIONS.

(a) SECTION 6041.—Section 6041 (relating to information at source) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULES FOR PAYMENTS FOR SERVICES.—No payment for the performance of services shall be exempt from the requirements of this section merely because it is a payment to a corporation."

(b) SECTION 6041A(a).—Subsection (a) of section 6041A is amended by adding at the end thereof the following new sentence: "A payment shall not be exempt from the requirements of this subsection merely because it is a payment to a corporation.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 1993.

SEC. 8252. MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT AND RETURN-PREPARER PENALTIES.

(a) REASONABLE BASIS REQUIRED.—

(1) SUBSTANTIAL UNDERSTATEMENT PENALTY.—Clause (ii) of section 6662(d)(2)(B) (relating to reduction for understatement due to position of taxpayer or disclosed item) is amended to read as follows:

"(ii) any item if—

"(I) the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return, and

''(II) there is a reasonable basis for the tax treatment of such item by the taxpayer.''

(2) RETURN PREPARER PENALTY.—Paragraph (3) of section 6694(a) (relating to understatement of taxpayer's liability by income tax return preparer) is amended to read as follows:

''(3) the requirements of subclauses (I) and (II) of section 6662(d)(2)(B)(ii) are not satisfied with respect to such position,''.

(b) SPECIAL TAX SHELTER RULE.—Subclause (II) of section 6662(d)(2)(C)(i) (relating to special rules for tax shelters) is amended by inserting before the period at the end thereof the following: ''and the reasonably anticipated after-tax benefits from the taxpayer's investment in such shelter do not significantly exceed the reasonably anticipated pre-tax economic profit or loss from such investment''.

(c) REASONABLE CAUSE EXCEPTION.—Paragraph (1) of section 6664(c) is amended by striking ''this part'' and inserting ''section 6662''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due dates for which (determined without regard to extensions) are after December 31, 1993.

SEC. 8253. RETURNS RELATING TO THE CANCELLATION OF INDEBTEDNESS BY CERTAIN FINANCIAL ENTITIES.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050P. RETURNS RELATING TO THE CANCELLATION OF INDEBTEDNESS BY CERTAIN FINANCIAL ENTITIES.

''(a) IN GENERAL.—Any applicable financial entity which discharges (in whole or in part) the indebtedness of any person during any calendar year shall make a return (at such time and in such form as the Secretary may by regulations prescribe) setting forth—

''(1) the name, address, and TIN of each person whose indebtedness was discharged during such calendar year,

''(2) the date of the discharge and the amount of the indebtedness discharged, and

''(3) such other information as the Secretary may prescribe.

''(b) EXCEPTION.—Subsection (a) shall not apply to any discharge of less than $600.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE FINANCIAL ENTITY.—The term 'applicable financial entity' means—

"(A) any financial institution described in section 581 or 591(a) and any credit union,

"(B) the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the National Credit Union Administration, and any other Federal executive agency (as defined in section 6050M), and any successor or subunit of any of the foregoing, and

"(C) any other corporation which is a direct or indirect subsidiary of an entity referred to in subparagraph (A) but only if, by virtue of being affiliated with such entity, such other corporation is subject to supervision and examination by a Federal or State agency which regulates entities referred to in subparagraph (A).

"(2) GOVERNMENTAL UNITS.—In the case of an entity described in paragraph (1)(B), any return under this section shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE FURNISHED.—Every applicable financial entity re-

quired to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the entity required to make such return, and

"(2) the information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made."

(b) PENALTIES.—

(1) RETURNS.—Subparagraph (B) of section 6724(d)(1) is amended by redesignating clauses (viii) through (xv) as clauses (ix) through (xvi), respectively, and by inserting after clause (vii) the following new clause:

"(viii) section 6050P (relating to returns relating to the cancellation of indebtedness by certain financial entities),".

(2) STATEMENTS.—Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (P) through (S) as subparagraphs (Q) through (T), respectively, and by inserting after subparagraph (O) the following new subparagraph:

''(P) section 6050P(d) (relating to returns relating to the cancellation of indebtedness by certain financial entities),''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

''Sec. 6050P. Returns relating to the cancellation of indebtedness by certain financial entities.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act.

PART VI—TREATMENT OF INTANGIBLES

SEC. 8261. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

(a) GENERAL RULE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

''SEC. 197. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

''(a) GENERAL RULE.—A taxpayer shall be entitled to an amortization deduction with respect to any amortizable section 197 intangible. The amount of such deduction shall be determined by amortizing 75 percent of the adjusted basis (for purposes of determining gain) of such

intangible ratably over the 14-year period beginning with the month in which such intangible was acquired.

''(b) NO OTHER DEPRECIATION OR AMORTIZATION DEDUCTION ALLOWABLE.—Except as provided in subsection (a), no depreciation or amortization deduction shall be allowable with respect to any amortizable section 197 intangible.

''(c) AMORTIZABLE SECTION 197 INTANGIBLE.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided in this section, the term 'amortizable section 197 intangible' means any section 197 intangible—

''(A) which is acquired by the taxpayer after the date of the enactment of this section, and

''(B) which is held in connection with the conduct of a trade or business or an activity described in section 212.

''(2) EXCLUSION OF SELF-CREATED INTANGIBLES, ETC.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible—

''(A) which is not described in subparagraph (D), (E), or (F) of subsection (d)(1), and

''(B) which is created by the taxpayer.

This paragraph shall not apply if the intangible is created in connection with a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

''(3) ANTI-CHURNING RULES.—

"For exclusion of intangibles acquired in certain transactions, see subsection (f)(9).

''(d) SECTION 197 INTANGIBLE.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided in this section, the term 'section 197 intangible' means—

''(A) goodwill,

''(B) going concern value,

''(C) any of the following intangible items:

''(i) workforce in place including its composition and terms and conditions (contractual or otherwise) of its employment,

''(ii) business books and records, operating systems, or any other information base (including lists or other information with respect to current or prospective customers),

''(iii) any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item,

''(iv) any customer-based intangible,

''(v) any supplier-based intangible, and

''(vi) any other similar item,

''(D) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof,

''(E) any covenant not to compete (or other arrangement to the extent such arrangement has substantially the same effect as a covenant not to compete) entered into in connection with an acquisition (directly or indirectly) of an interest in a trade or business or substantial portion thereof, and

''(F) any franchise, trademark, or trade name.

''(2) CUSTOMER-BASED INTANGIBLE.—

''(A) IN GENERAL.—The term 'customer-based intangible' means—

''(i) composition of market,

''(ii) market share, and

''(iii) any other value resulting from future provision of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with customers.

''(B) SPECIAL RULE FOR FINANCIAL INSTITUTIONS.—In the case of a financial institution, the term 'customer-based intangible' includes deposit base and similar items.

''(3) SUPPLIER-BASED INTANGIBLE.—The term 'supplier-based intangible' means any value resulting from future acquisitions of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer.

''(e) EXCEPTIONS.—For purposes of this section, the term 'section 197 intangible' shall not include any of the following:

''(1) FINANCIAL INTERESTS.—Any interest—

''(A) in a corporation, partnership, trust, or estate, or

''(B) under an existing futures contract, foreign currency contract, notional principal contract, or other similar financial contract.

''(2) LAND.—Any interest in land.

"(3) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—Any—

"(i) computer software which is readily available for purchase by the general public, is subject to a nonexclusive license, and has not been substantially modified, and

"(ii) other computer software which is not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(B) COMPUTER SOFTWARE DEFINED.—For purposes of subparagraph (A), the term 'computer software' means any program designed to cause a computer to perform a desired function. Such term shall not include any data base or similar item unless the data base or item is in the public domain and is incidental to the operation of otherwise qualifying computer software.

"(4) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—Any of the following not acquired in a transaction (or series of related trans-

actions) involving the acquisition of assets constituting a trade business or substantial portion thereof:

''(A) Any interest in a film, sound recording, video tape, book, or similar property.

''(B) Any right to receive tangible property or services under a contract or granted by a governmental unit or agency or instrumentality thereof.

''(C) Any interest in a patent or copyright.

''(D) To the extent provided in regulations, any right under a contract (or granted by a governmental unit or an agency or instrumentality thereof) if such right—

''(i) has a fixed duration of less than 14 years, or

''(ii) is fixed as to amount and, without regard to this section, would be recoverable under a method similar to the unit-of-production method.

''(5) INTERESTS UNDER LEASES AND DEBT INSTRUMENTS.—Any interest under—

''(A) an existing lease of tangible property, or

''(B) except as provided in subsection (d)(2)(B), any existing indebtedness.

"(6) TREATMENT OF SPORTS FRANCHISES.—A franchise to engage in professional football, basketball, baseball, or other professional sport, and any item acquired in connection with such a franchise.

"(7) MORTGAGE SERVICING.—Any right to service indebtedness which is secured by residential real property unless such right is acquired in a transaction (or series of related transactions) involving the acquisition of assets (other than rights described in this paragraph) constituting a trade or business or substantial portion thereof.

"(8) CERTAIN TRANSACTION COSTS.—Any fees for professional services, and any transaction costs, incurred by parties to a transaction with respect to which any portion of the gain or loss is not recognized under part III of subchapter C.

"(f) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN DISPOSITIONS, ETC.—If there is a disposition of any amortizable section 197 intangible acquired in a transaction or series of related transactions (or any such intangible becomes worthless) and one or more other amortizable section 197 intangibles acquired in such transaction or series of related transactions are retained—

''(A) no loss shall be recognized by reason of such disposition (or such worthlessness), and

''(B) appropriate adjustments to the adjusted bases of such retained intangibles shall be made for any loss not recognized under subparagraph (A).

All persons treated as a single taxpayer under section 41(f)(1) shall be so treated for purposes of the preceding sentence.

''(2) TREATMENT OF CERTAIN TRANSFERS.—

''(A) IN GENERAL.—In the case of any section 197 intangible transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of applying this section with respect to so much of the adjusted basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

''(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

''(i) any transaction described in section 332, 351, 361, 721, 731, 1031, or 1033, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

"(3) TREATMENT OF AMOUNTS PAID PURSUANT TO COVENANTS NOT TO COMPETE, ETC.—Any amount paid or incurred pursuant to a covenant or arrangement referred to in subsection (d)(1)(E) shall be treated as an amount chargeable to capital account.

"(4) TREATMENT OF FRANCHISES, ETC.—

"(A) FRANCHISE.—The term 'franchise' has the meaning given to such term by section 1253(b)(1).

"(B) TREATMENT OF RENEWALS.—Any renewal of a franchise, trademark, or trade name (or of a license, a permit, or other right referred to in subsection (d)(1)(D)) shall be treated as an acquisition. The preceding sentence shall only apply with respect to costs incurred in connection with such renewal.

"(C) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT.—Any amount to which section 1253(d)(1) applies shall not be taken into account under this section.

"(5) TREATMENT OF CERTAIN REINSURANCE TRANSACTIONS.—In the case of any amortizable section 197 intangible resulting from an assumption reinsurance transaction, the amount taken into account as the adjusted basis of such intangible under this section shall be the excess of—

"(A) the amount paid or incurred by the acquirer under the assumption reinsurance transaction, over

"(B) the amount required to be capitalized under section 848 in connection with such transaction.

Subsection (b) shall not apply to any amount required to be capitalized under section 848.

"(6) TREATMENT OF CERTAIN SUBLEASES.—For purposes of this section, a sublease shall be treated in the same manner as a lease of the underlying property involved.

"(7) TREATMENT AS DEPRECIABLE.—For purposes of this chapter, any amortizable section 197 intangible shall be treated as property which is of a character subject to the allowance for depreciation provided in section 167.

"(8) TREATMENT OF CERTAIN INCREMENTS IN VALUE.—This section shall not apply to any incre-

ment in value if, without regard to this section, such increment is properly taken into account in determining the cost of property which is not a section 197 intangible.

''(9) ANTI-CHURNING RULES.—For purposes of this section—

''(A) IN GENERAL.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible which is described in subparagraph (A) or (B) of subsection (d)(1) (or for which depreciation or amortization would not have been allowable but for this section) and which is acquired by the taxpayer after the date of the enactment of this section, if—

''(i) the intangible was held or used at any time on or after July 25, 1991, and on or before such date of enactment by the taxpayer or a related person,

''(ii) the intangible was acquired from a person who held such intangible at any time on or after July 25, 1991, and on or before such date of enactment, and, as part of the transaction, the user of such intangible does not change, or

"(iii) the taxpayer grants the right to use such intangible to a person (or a person related to such person) who held or used such intangible at any time on or after July 25, 1991, and on or before such date of enactment.

For purposes of this subparagraph, the determination of whether the user of property changes as part of a transaction shall be determined in accordance with regulations prescribed by the Secretary. For purposes of this subparagraph, deductions allowable under section 1253(d) shall be treated as deductions allowable for amortization.

"(B) EXCEPTION WHERE GAIN RECOGNIZED.—If—

"(i) subparagraph (A) would not apply to an intangible acquired by the taxpayer but for the last sentence of subparagraph (C)(i), and

"(ii) the person from whom the taxpayer acquired the intangible elects, notwithstanding any other provision of this title—

''(I) to recognize gain on the disposition of the intangible, and

''(II) to pay a tax on such gain which, when added to any other income tax on such gain under this title, equals such gain multiplied by the highest rate of income tax applicable to such person under this title,

then subparagraph (A) shall apply to the intangible only to the extent that the taxpayer's adjusted basis in the intangible exceeds the gain recognized under clause (ii)(I).

''(C) RELATED PERSON DEFINED.—For purposes of this paragraph—

''(i) RELATED PERSON.—A person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

''(I) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

''(II) the related person and such person are engaged in trades or busi-

nesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1)).

For purposes of subclause (I), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

''(ii) TIME FOR MAKING DETERMINATION.—A person shall be treated as related to another person if such relationship exists immediately before or immediately after the acquisition of the intangible involved.

''(D) ACQUISITIONS BY REASON OF DEATH.—Subparagraph (A) shall not apply to the acquisition of any property by the taxpayer if the basis of the property in the hands of the taxpayer is determined under section 1014(a).

''(E) SPECIAL RULE FOR PARTNERSHIPS.—With respect to any increase in the basis of partnership property under section 732, 734, or 743, determinations under this paragraph shall be made at the partner level and each partner shall be treated as having owned and used such partner's proportionate share of the partnership assets.

"(F) ANTI-ABUSE RULES.—The term 'amortizable section 197 intangible' does not include any section 197 intangible acquired in a transaction, one of the principal purposes of which is to avoid the requirement of subsection (c)(1) that the intangible be acquired after the date of the enactment of this section or to avoid the provisions of subparagraph (A).

"(g) SPECIAL RULES FOR ACQUISITION OF CERTAIN COMPUTER SOFTWARE BUSINESSES.—

"(1) IN GENERAL.—In the case of any section 197 intangible acquired in a transaction to which this subsection applies, subsection (a) shall be applied with respect to one-half of the 75 percent of its adjusted basis which is amortizable under subsection (a) by substituting '5-year period' for '14-year period'.

"(2) TRANSACTIONS TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof if—

"(i) the principal business activity of the trade or business (or portion) is computer software development, computer sales, licensing, or leasing, the provision of computer software services, or a combination thereof, and

"(ii) during the testing period, the aggregate computer software development costs of such trade or business (or portion) are not less than 17 percent of the greater of—

"(I) the aggregate gross receipts of such trade or business (or portion), or

"(II) the aggregate gross expenditures of such trade or business (or portion).

"(B) COMPUTER SOFTWARE DEVELOPMENT COSTS.—For purposes of subparagraph (A), the term 'computer software development costs' means the sum of—

"(i) the computer software development costs which qualify as research and experimentation expenditures under section 174, plus

"(ii) the amortization deductions of the trade or business with respect to computer software not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(C) TESTING PERIOD.—For purposes of subparagraph (A), the term 'testing period' means the 5-year period ending on the date of the last transaction described in subparagraph (A) pursuant to which the section 197 intangible was acquired (or, if shorter, the entire period of existence of the trade or business (or portion) before such date).

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be appropriate to prevent avoidance of the purposes of this section through related persons or otherwise."

(b) MODIFICATIONS TO DEPRECIATION RULES.—

(1) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—Section 167 (relating to depreciation deduction) is amended by redesignat-

ing subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—

''(1) COMPUTER SOFTWARE.—

''(A) IN GENERAL.—If a depreciation deduction is allowable under subsection (a) with respect to any computer software, such deduction shall be computed by using the straight line method and a useful life of 36 months.

''(B) COMPUTER SOFTWARE.—For purposes of this section, the term 'computer software' has the meaning given to such term by section 197(e)(3)(B); except that such term shall not include any such software which is an amortizable section 197 intangible.

''(2) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—If a depreciation deduction is allowable under subsection (a) with respect to any property described in subparagraph (B), (C), or (D) of section 197(e)(4), such deduction shall be computed in accordance with regulations prescribed by the Secretary.

''(3) MORTGAGE SERVICING RIGHTS.—If a depreciation deduction is allowable under subsection

(a) with respect to any right described in section 197(e)(7), such deduction shall be computed by using the straight line method and a useful life of 108 months.''

(2) ALLOCATION OF BASIS IN CASE OF LEASED PROPERTY.—Subsection (c) of section 167 is amended to read as follows:

''(c) BASIS FOR DEPRECIATION.—

''(1) IN GENERAL.—The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 1011, for the purpose of determining the gain on the sale or other disposition of such property.

''(2) SPECIAL RULE FOR PROPERTY SUBJECT TO LEASE.—If any property is acquired subject to a lease—

''(A) no portion of the adjusted basis shall be allocated to the leasehold interest, and

''(B) the entire adjusted basis shall be taken into account in determining the depreciation deduction (if any) with respect to the property subject to the lease.''

(c) AMENDMENTS TO SECTION 1253.—Subsection (d) of section 1253 is amended by striking paragraphs (2), (3), (4), and (5) and inserting the following:

''(2) OTHER PAYMENTS.—Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) does not apply shall be treated as an amount chargeable to capital account.

''(3) RENEWALS, ETC.—For purposes of determining the term of a transfer agreement under this section, there shall be taken into account all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed).''

(d) AMENDMENT TO SECTION 848.—Subsection (g) of section 848 is amended by striking ''this section'' and inserting ''this section or section 197''.

(e) AMENDMENTS TO SECTION 1060.—

(1) Paragraph (1) of section 1060(b) is amended by striking ''goodwill or going concern value'' and inserting ''section 197 intangibles''.

(2) Paragraph (1) of section 1060(d) is amended by striking ''goodwill or going concern value (or similar items)'' and inserting ''section 197 intangibles''.

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (g) of section 167 (as redesignated by subsection (b)) is amended to read as follows:

''(g) CROSS REFERENCES.—

"(1) For additional rule applicable to depreciation of improvements in the case of mines, oil and gas wells, other natural deposits, and timber, see section 611.

"(2) For amortization of goodwill and certain other intangibles, see section 197."

(2) Subsection (f) of section 642 is amended by striking ''section 169'' and inserting ''sections 169 and 197''.

(3) Subsection (a) of section 1016 is amended by striking paragraph (19) and by redesignating the following paragraphs accordingly.

(4) Subparagraph (C) of section 1245(a)(2) is amended by striking ''193, or 1253(d) (2) or (3)'' and inserting ''or 193''.

(5) Paragraph (3) of section 1245(a) is amended by striking ''section 185 or 1253(d) (2) or (3)''.

(6) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

''Sec. 197. Amortization of goodwill and certain other intangibles.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by

this section shall apply with respect to property acquired after the date of the enactment of this Act.

(2) ELECTION TO HAVE AMENDMENTS APPLY TO PROPERTY ACQUIRED AFTER JULY 25, 1991.—

(A) IN GENERAL.—If an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after July 25, 1991,

(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) (and so much of subsection (f)(9)(A) of such section 197 as precedes clause (i) thereof) shall be applied with respect to the taxpayer by treating July 25, 1991, as the date of the enactment of such section, and

(iii) in applying subsection (f)(9) of such section, with respect to any property acquired by the taxpayer on or before the date of the enactment of this Act, only holding or use on July 25, 1991, shall be taken into account.

(B) ELECTION.—An election under this paragraph shall be made at such time and in

such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of such Code) at any time after November 22, 1991, and on or before the date on which such election is made.

(3) ELECTIVE BINDING CONTRACT EXCEPTION.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any acquisition of property by the taxpayer if—

(i) such acquisition is pursuant to a written binding contract in effect on the date of the enactment of this Act and at all times thereafter before such acquisition,

(ii) an election under paragraph (2) does not apply to the taxpayer, and

(iii) the taxpayer makes an election under this paragraph with respect to such contract.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe. Such an election, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to all property acquired pursuant to the contract with respect to which such election was made.

SEC. 8262. TREATMENT OF CERTAIN PAYMENTS TO RETIRED OR DECEASED PARTNER.

(a) SECTION 736(b) NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 736 (relating to payments for interest in partnership) is amended by adding at the end thereof the following new paragraph:

''(3) LIMITATION ON APPLICATION OF PARAGRAPH (2).—Paragraph (2) shall apply only if—

''(A) capital is not a material income-producing factor for the partnership, and

''(B) the retiring or deceased partner was a general partner in the partnership.''

(b) LIMITATION ON DEFINITION OF UNREALIZED RECEIVABLES.—

(1) IN GENERAL.—Subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking ''sections 731, 736, and 741'' each place they appear and inserting '', sections 731 and 741 (but not for purposes of section 736)'', and

(B) by striking ''section 731, 736, or 741'' each place it appears and inserting ''section 731 or 741''.

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 751 is amended by striking ''sections 731, 736, and 741'' and inserting ''sections 731 and 741''.

(B) Section 736 is amended by striking subsection (c).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply in the case of partners retiring or dying on or after January 5, 1993.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any partner retiring on or after January 5, 1993, if a written contract to purchase such partner's inter-

est in the partnership was binding on January 4, 1993, and at all times thereafter before such purchase.

PART VII—MISCELLANEOUS PROVISIONS

SEC. 8271. DENIAL OF DEDUCTION RELATING TO TRAVEL EXPENSES.

(a) IN GENERAL.—Section 274(m) (relating to additional limitations on travel expenses) is amended by adding at the end thereof the following new paragraph:

''(3) TRAVEL EXPENSES OF SPOUSE, DEPENDENT, OR OTHERS.—No deduction shall be allowed under this chapter (other than section 217) for travel expenses paid or incurred with respect to a spouse, dependent, or other individual accompanying the taxpayer (or an officer or employee of the taxpayer) on business travel, unless—

''(A) the spouse, dependent, or other individual is an employee of the taxpayer,

''(B) the travel of the spouse, dependent, or other individual is for a bona fide business purpose, and

''(C) such expenses would otherwise be deductible by the spouse, dependent, or other individual.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 8272. INCREASE IN WITHHOLDING FROM SUPPLEMENTAL WAGE PAYMENTS.

If an employer elects under Treasury Regulation 31.3402(g)–1 to determine the amount to be deducted and withheld from any supplemental wage payment by using a flat percentage rate, the rate to be used in determining the amount to be so deducted and withheld shall not be less than 28 percent. The preceding sentence shall apply to payments made after December 31, 1993.

SEC. 8273. EXCISE TAX ON CERTAIN VACCINES MADE PERMANENT.

(a) TAX.—Subsection (c) of section 4131 (relating to tax on certain vaccines) is amended to read as follows:

''(c) APPLICATION OF SECTION.—The tax imposed by this section shall apply—

''(1) after December 31, 1987, and before January 1, 1993, and

''(2) during periods after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993.''

(b) TRUST FUND.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensa-

tion Trust Fund) is amended by striking ''and before October 1, 1992,''.

(c) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—On any taxable vaccine—

(A) which was sold by the manufacturer, producer, or importer before the date of the enactment of this Act,

(B) on which no tax was imposed by section 4131 of the Internal Revenue Code of 1986 (or, if such tax was imposed, was credited or refunded), and

(C) which is held on such date by any person for sale or use,

there is hereby imposed a tax in the amount determined under section 4131(b) of such Code.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding any taxable vaccine to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such

manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the last day of the 6th month beginning after the date of the enactment of this Act.

(3) DEFINITIONS.—For purposes of this subsection, terms used in this subsection which are also used in section 4131 of such Code shall have the respective meanings such terms have in such section.

(4) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4131 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 4131.

TITLE IX—COMMITTEE ON FOREIGN RELATIONS

SEC. 9001. DELAY IN COST-OF-LIVING ADJUSTMENTS IN FOREIGN SERVICE RETIREMENT BENEFITS DURING FISCAL YEARS 1994, 1995, AND 1996.

(a) APPLICABILITY.—This section shall apply with respect to any cost-of-living increase scheduled to take ef-

fect under section 826 or 858 of the Foreign Service Act of 1980 during fiscal year 1994, 1995, or 1996.

(b) DELAY IN EFFECTIVE DATE OF ADJUSTMENTS.—A cost-of-living increase described in subsection (a) shall not take effect until the first day of the third calendar month after the date such increase would take effect but for this subsection.

(c) RULE OF CONSTRUCTION.—

(1) SIZE OF COST-OF-LIVING ADJUSTMENT.—Nothing in this section shall be considered to affect the size of the cost-of-living adjustment under section 8340(b) or section 8462(b) of title 5, United States Code, in the same fiscal year as a cost-of-living increase described in subsection (a).

(2) DETERMINATIONS OF ELIGIBILITY.—The delay in the effective date of cost-of-living adjustments under subsection (b) shall not affect any determination relating to eligibility for an annuity increase or the amount of the first increase in an annuity under section 826 or 858 of the Foreign Service Act of 1980.

SEC. 9002. ELIMINATION OF THE ALTERNATIVE-FORM-OF-ANNUITY OPTION UNDER THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM EXCEPT FOR INDIVIDUALS WITH CRITICAL MEDICAL CONDITIONS.

(a) IN GENERAL.—Section 807(e)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4047(e)(1)) is amended by striking ''a participant may,'' and inserting ''any participant who has a life-threatening affliction or other critical medical condition may,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect January 1, 1994.

TITLE X—COMMITTEE ON GOVERNMENTAL AFFAIRS

Subtitle A—Civil Service

SEC. 10001. DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS DURING FISCAL YEARS 1994, 1995, AND 1996.

(a) APPLICABILITY.—This section shall apply with respect to any cost-of-living increase scheduled to take effect, during fiscal year 1994, 1995, or 1996, under—

(1) section 8340(b) or 8462(b) of title 5, United States Code; or

(2) section 291 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2131), as set forth in section 802 of the CIARDS Technical Cor-

rections Act of 1992 (Public Law 102–496; 106 Stat. 3196).

(b) DELAY IN EFFECTIVE DATE OF ADJUSTMENTS.—A cost-of-living increase described in subsection (a) shall not take effect until the first day of the third calendar month after the date such increase would otherwise take effect.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to affect any determination relating to eligibility for an annuity increase or the amount of the first increase in an annuity under section 8340(b) or (c) or section 8462 (b) or (c) of title 5, United States Code, or comparable provisions of law.

SEC. 10002. PERMANENT ELIMINATION OF THE ALTERNATIVE-FORM-OF-ANNUITY OPTION EXCEPT FOR INDIVIDUALS WITH A CRITICAL MEDICAL CONDITION.

(a) CIVIL SERVICE RETIREMENT SYSTEM; FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Sections 8343a and 8420a of title 5, United States Code, are each amended—

(1) in subsection (a) by striking ''an employee or Member may,'' and inserting ''any employee or Member who has a life-threatening affliction or other critical medical condition may,''; and

(2) by striking subsection (f).

(b) CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM.—Section 294(a) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2143(a)), as set forth in section 802 of the CIARDS Technical Corrections Act of 1992 (Public Law 102–496; 106 Stat. 3196), is amended by striking ''a participant may,'' and inserting ''any participant who has a life-threatening affliction or other critical medical condition may,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1995, and shall apply with respect to any annuity commencing on or after that date.

SEC. 10003. DISTRICT OF COLUMBIA GOVERNMENT CONTRIBUTIONS FOR CERTAIN EMPLOYEE AND ANNUITANT HEALTH BENEFITS.

(a) CONTRIBUTIONS AFTER 1993.—

(1) IN GENERAL.—Section 8906(g) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

''(3) The Government contributions authorized by this section for health benefits for an annuitant shall be paid by the government of the District of Columbia, in the case of an annuitant whose eligibility for an annuity is based on a separation from service with such government, or who is a survivor

of such an annuitant or a survivor of an employee who died while employed by such government.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 1993, and shall apply with respect to amounts payable for periods beginning on or after that date.

(b) CONTRIBUTIONS FOR PERIOD BETWEEN 1975 AND 1993.—

(1) IN GENERAL.—The government of the District of Columbia shall pay into the Employees Health Benefit Fund, as payment for any amounts which would, for the period beginning on January 1, 1975 through September 30, 1993, have been payable under the provisions of section 8906(g)(3) of title 5, United States Code (as added by subsection (a)(1) of this section) if such provision had been in effect as of January 1, 1975, of which—

(A) at least 25 percent of the total of such amounts shall be paid no later than January 1, 1994;

(B) at least 25 percent of the total of such amounts shall be paid no later than January 1, 1995;

(C) at least 25 percent of the total of such amounts shall be paid no later than January 1, 1996; and

(D) any remaining balance shall be paid no later than January 1, 1997.

(2) PRORATED PAYMENTS.—In determining any amount for which the government of the District of Columbia is liable under paragraph (1), the amount of the liability shall be prorated to reflect only that portion of total service which is attributable to civilian service performed (by the former employee of the government of the District of Columbia or by the deceased individual referred to under section 8906 (g)(3) of title 5, United States Code, as the case may be) during the period beginning on January 1, 1975, through September 30, 1993, as estimated by the Office of Personnel Management.

Subtitle B—Postal Service

SEC. 10101. PAYMENTS TO BE MADE BY THE UNITED STATES POSTAL SERVICE.

(a) RELATING TO CORRECTED CALCULATIONS FOR PAST RETIREMENT COLAS.—In addition to any other payments required under section 8348(m) of title 5, United States Code, or any other provision of law, the United States Postal Service shall pay into the Civil Service Re-

tirement and Disability Fund a total of $693,000,000, of which—

(1) at least one-third shall be paid not later than September 30, 1996;

(2) at least two-thirds shall be paid not later than September 30, 1997; and

(3) any remaining balance shall be paid not later than September 30, 1998.

(b) RELATING TO CORRECTED CALCULATIONS FOR PAST HEALTH BENEFITS.—In addition to any other payments required under section 8906(g)(2) of title 5, United States Code, or any other provision of law, the United States Postal Service shall pay into the Employees Health Benefits Fund a total of $348,000,000, of which—

(1) at least one-third shall be paid not later than September 30, 1996;

(2) at least two-thirds shall be paid not later than September 30, 1997; and

(3) any remaining balance shall be paid not later than September 30, 1998.

Subtitle C—Miscellaneous

SEC. 10201. FEDERAL EMPLOYEES' SURVIVOR ANNUITY IMPROVEMENTS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) REDUCTION FOR SPOUSAL ANNUITY.—Section 8339(j) of title 5, United States Code, is amended—

(A) in paragraph (3)—

(i) in the second sentence, by striking out '', within such 2-year period,''; and

(ii) by striking out the fourth sentence and inserting in lieu thereof the following: ''The Office shall, by regulation, provide for payment of the deposit required under this paragraph by a reduction in the annuity of the employee or Member. The reduction shall, to the extent practicable, be designed so that the present value of the future reduction is actuarially equivalent to the deposit required under this paragraph, except that the total reductions in the annuity of an employee or Member to pay deposits required by the provisions of this paragraph, paragraph (5), or subsection (k)(2) shall not exceed 25 percent of the annuity computed under subsections (a) through (i), (n), and (q), including adjustments under section 8340. The reduction, which shall be effective on the same date

as the election under this paragraph, shall be permanent and unaffected by any future termination of the entitlement of the former spouse. Such reduction shall be independent of and in addition to the reduction required under the first sentence of this paragraph.''; and

(B) in paragraph (5)(C)—

(i) in clause (ii), by striking out '', within 2 years after the date of the remarriage or, if later, the death or remarriage of the former spouse (or of the last such surviving former spouse),''; and

(ii) by amending clause (iii) to read as follows:

''(iii) The Office shall, by regulation, provide for payment of the deposit required under clause (ii) by a reduction in the annuity of the employee or Member. The reduction shall, to the extent practicable, be designed so that the present value of the future reduction is actuarially equivalent to the deposit required under clause (ii), except that total reductions in the annuity of an employee or Member to pay deposits required by the provisions of this para-

graph or paragraph (3) shall not exceed 25 percent of the annuity computed under subsections (a) through (i), (n), and (q), including adjustments under section 8340. The reduction required by this clause, which shall be effective on the same date as the election under clause (i), shall be permanent and unaffected by any future termination of the marriage. Such reduction shall be independent of and in addition to the reduction required under clause (i).''.

(2) REDUCTION RELATING TO FORMER SPOUSE.—Section 8339(k)(2) of title 5, United States Code, is amended—

(A) in subparagraph (B)(ii), by striking out ''Within 2 years after the date of the marriage, the'' and inserting in lieu thereof ''The''; and

(B) by amending subparagraph (C) to read as follows:

''(C) The Office shall, by regulation, provide for payment of the deposit required under subparagraph (B)(ii) by a reduction in the annuity of the employee or Member. The reduction shall, to the extent practicable, be designed so that the present value of the future reduction is actuarially equivalent to the de-

posit required under subparagraph (B)(ii), except that total reductions in the annuity of an employee or Member to pay deposits required by this subsection or subsection (j)(3) shall not exceed 25 percent of the annuity computed under subsections (a) through (i), (n), and (q), including adjustments under section 8340. The reduction required by this subparagraph, which shall be effective on the same date as the election under subparagraph (A), shall be permanent and unaffected by any future termination of the marriage. Such reduction shall be independent of and in addition to the reduction required under subparagraph (A).''.

(3) DEPOSITS.—Section 8334(h) of title 5, United States Code, is amended by striking out ''and by section 8339(j)(5)(C) and the last sentence of section 8339(k)(2) of this title''.

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8418 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking out '', before the expiration of the 2-year period involved,''; and

(2) by amending subsection (b) to read as follows:

''(b) The Office shall, by regulation, provide for payment of the deposit required under subsection (a) by a reduction in the annuity of the employee or Member. The reduction shall, to the extent practicable, be designed so that the present value of the future reduction is actuarially equivalent to the deposit required under subsection (a), except that the total reductions in the annuity of an employee or Member to pay deposits required by this section shall not exceed 25 percent of the annuity computed under section 8415 or section 8452, including adjustments under section 8462. The reduction required by this subsection, which shall be effective at the same time as the election under section 8416 (b) and (c) or section 8417(b), shall be permanent and unaffected by any future termination of the marriage or the entitlement of the former spouse. Such reduction shall be independent of and in addition to the reduction required under section 8416 (b) and (c) or section 8417(b).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the first day of the first month beginning 30 days after the date of the enactment of this Act and shall apply to all deposits required under section 8339(j) (3) and (5), 8339(k)(2), or 8418 of title 5, United States Code,

on which no payment has been made prior to such effective date.

(2) PARTIAL DEPOSIT.—For any deposit required under section 8339(j) (3) and (5), 8339(k)(2), or 8418 of title 5, United States Code, or section 4 (b) and (c) of the Civil Service Retirement Spouse Equity Act of 1984 that has been partially, but not fully, paid before the effective date of this Act, the Office shall by regulation provide for determining the remaining portion of the deposit and for payment of the remaining portion of the deposit by a prospective reduction in the annuity of the employee or Member. The reduction shall be similar to the reductions provided pursuant to the amendments made under this section.

TITLE XI—JUDICIARY

SEC. 1101. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking ''1995'' and inserting ''1998'';

(2) in subsection (b)(2) by striking ''1995'' and inserting ''1998''; and

(3) in subsection (c)—

(A) by striking ''through 1995'' and inserting ''through 1998''; and

(B) by adding at the end the following:

''(6) $111,000,000 in fiscal year 1996.

''(7) $115,000,000 in fiscal year 1997.

''(8) $119,000,000 in fiscal year 1998.''.

TITLE XII—COMMITTEE ON LABOR AND HUMAN RESOURCES

Subtitle A—Student Loan Provisions

SEC. 12001. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This subtitle may be cited as the ''Student Loan Reform Act of 1993''.

(b) REFERENCES.—References in this subtitle to ''the Act'' are references to the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

CHAPTER 1—FEDERAL DIRECT STUDENT LOAN PROGRAM

SEC. 12011. FEDERAL DIRECT STUDENT LOAN PROGRAM.

Part D of title IV (20 U.S.C. 1087a) is amended to read as follows:

''PART D—FEDERAL DIRECT STUDENT LOAN PROGRAM

''SEC. 451. PURPOSE; PROGRAM AUTHORIZATION.

''(a) PURPOSE.—It is the purpose of this part—

''(1) to simplify the delivery of student loans to borrowers and eliminate borrower confusion;

''(2) to provide a variety of repayment plans, including income contingent repayment, to borrowers so that borrowers have flexibility in managing their student loan repayment obligations, and so that those obligations do not foreclose careers in community or public service for those borrowers;

''(3) to replace, through an orderly transition, the Federal Family Education Loan Program under part B of this title with the Federal Direct Student Loan Program under this part;

''(4) to avoid the unnecessary cost, to taxpayers and borrowers, and administrative complexity associated with the Federal Family Education Loan Program under part B of this title through the use of a direct student loan program; and

''(5) to create a more streamlined student loan program that can be managed more effectively at the Federal level.

''(b) PROGRAM AUTHORITY.—There are hereby made available, in accordance with the provisions of this part, such sums as may be necessary to make loans to all eligible students in attendance at participating institutions of higher education selected by the Secretary (and the eligi-

ble parents of such students), to enable such students to pursue their courses of study at such institutions during the period beginning July 1, 1994. Such loans shall be made by participating institutions, or consortia thereof, that have agreements with the Secretary to originate loans, or by alternative originators designated by the Secretary to make loans for students in attendance at participating institutions (and their parents).

"SEC. 452. FUNDS FOR ORIGINATION OF DIRECT STUDENT LOANS.

''(a) IN GENERAL.—The Secretary shall provide funds for student and parent loans under this part—

''(1) directly to an institution of higher education that has an agreement with the Secretary under section 454(a) to participate in the direct student loan program under this part and that also has an agreement with the Secretary under section 454(b) to originate loans under this part; or

''(2) through an alternative originator designated by the Secretary, on the basis of the need and the eligibility of students at each participating institution, and parents of such students, for such loans.

''(b) FEES FOR ORIGINATION SERVICES.—

"(1) FEES FOR INSTITUTIONS.—The Secretary shall pay fees to institutions of higher education or consortia thereof having agreements under section 454(b), in an amount established by the Secretary, to assist in meeting the costs of loan origination. Such fees—

"(A) shall be paid by the Secretary based on all the loans made under this part to a particular borrower in the same academic year;

"(B) shall be subject to a sliding scale that decreases the amount of such fees as the number of borrowers increases; and

"(C)(i) for academic year 1994–1995, shall not exceed a program-wide average of $10 per borrower for all the loans made under this part to such borrower in the same academic year; and

"(ii) for succeeding academic years, the Secretary shall establish such average fee pursuant to regulations.

"(2) FEES FOR ALTERNATIVE ORIGINATORS.—The Secretary shall pay fees for loan origination services to alternative originators of loans made under this part in an amount established by the Secretary in accordance with the terms of the contract

described in section 456(b) between the Secretary and each such alternative originator.

''(c) NO ENTITLEMENT TO PARTICIPATE OR ORIGINATE.—No institution of higher education shall have a right to participate in the program authorized by this part, originate loans, or perform any program function under this part. Nothing in this subsection shall be construed so as to limit the entitlement of an eligible student attending a participating institution (or the eligible parent of such student) to borrow under this part nor limit the borrower's contractual right against the United States to receive any loan for which the student (or parent) is eligible.

''(d) DELIVERY OF LOAN FUNDS.—Loan funds shall be paid and delivered to an institution by the Secretary prior to the beginning of the payment period established by the Secretary in a manner that is consistent with payment and delivery of basic grants under subpart 1 of part A.

"SEC. 453. SELECTION OF INSTITUTIONS FOR PARTICIPATION AND ORIGINATION.

''(a) PHASE-IN OF PROGRAM.—

''(1) GENERAL AUTHORITY.—The Secretary shall enter into agreements pursuant to section 454(a) with institutions of higher education to participate in the direct student loan program under

this part, and agreements pursuant to section 454(b) with institutions of higher education, or consortia thereof, to originate loans in such program, for academic years beginning on or after July 1, 1994. Alternative origination services, through which an entity other than the participating institution at which the student is in attendance originates the loan, shall be provided by the Secretary, through 1 or more contracts under section 456(b) or such other means as the Secretary may provide, for students attending participating institutions that do not originate direct student loans under this part. Such agreements for the academic year 1994–1995 shall, to the extent feasible, be entered into not later than January 1, 1994.

''(2) TRANSITION PROVISIONS.—In order to ensure an expeditious but orderly transition from the loan programs under part B of this title to the direct student loan program under this part, the Secretary shall, in the exercise of the Secretary's discretion, determine the number of institutions with which the Secretary whall enter into agreements under subsections (a) and (b) of section 454 for any academic year, except that the Secretary shall exer-

cise such discretion so as to achieve the following goals:

''(A) For academic year 1994–1995, loans made under this part shall represent 5 percent of the new student loan volume for such year.

''(B) For academic year 1995–1996, loans made under this part shall represent 30 percent of the new student loan volume for such year.

''(C) For academic year 1996–1997, loans made under this part shall represent 40 percent of the new student loan volume for such year.

''(D) For academic year 1997–1998 and fiscal year 1998, loans made under this part shall represent 50 percent of the new student loan volume for such years.

''(3) NEW STUDENT LOAN VOLUME.—For the purpose of this part, the term 'new student loan volume' means the estimated sum of all loans that will be made, insured or guaranteed under this part and part B in the year for which the determination is made. The Secretary shall base the estimate described in the preceding sentence on the most recent program data available.

''(4) CASH MANAGEMENT.—The requirements of sections 3335, 6501, and 6503 of title 31, United

States Code (the Cash Management Improvement Act of 1990) shall apply to the program under this part only to the extent specified in a schedule established by the Secretaries of Education and the Treasury, except that such schedule shall provide for the application of all such requirements not later than July 1, 1998.

''(b) SELECTION CRITERIA.—

''(1) APPLICATION.—Each institution of higher education desiring to participate in the direct student loan program under this part shall submit an application satisfactory to the Secretary containing such information and assurances as the Secretary may require.

''(2) SELECTION CRITERIA.—The Secretary shall select institutions for participation in the direct student loan program under this part, and shall enter into agreements with such institutions under section 454(a), from among those institutions that submit the applications described in paragraph (1), and meet such other eligibility requirements as the Secretary shall prescribe, by, to the extent possible—

''(A)(i) categorizing such institutions according to anticipated loan volume, length of

academic program, control of the institution, highest degree offered, size of student enrollment, percentage of students borrowing under part B, geographic location, annual loan volume, default experience and composition of the student body; and

''(ii) beginning in academic year 1995–1996 selecting institutions that are reasonably representative of each of the categories described pursuant to clause (i); and

''(B) if the Secretary determines it necessary to carry out the purposes of this part, selecting additional institutions.

''(c) SELECTION CRITERIA FOR ORIGINATION.—

''(1) IN GENERAL.—The Secretary may enter into a supplemental agreement with an institution (or a consortium of such institutions) that—

''(A) has an agreement under subsection 454(a);

''(B) desires to originate loans under this part; and

''(C) meets the criteria described in paragraph (2).

''(2) TRANSITION SELECTION CRITERIA.—For academic year 1994–1995, the Secretary may ap-

prove an institution to originate loans only if such institution—

''(A) made loans under part E of this title in academic year 1993–1994 and did not exceed the applicable maximum default rate under section 462(g) for the most recent fiscal year for which data are available;

''(B) is not on the reimbursement system of payment for any of the programs under subpart 1 or 3 of part A, part C, or part E;

''(C) is not overdue on program or financial reports or audits required under this title;

''(D) is not subject to an emergency action, or a limitation, suspension, or termination under section 428(b)(1)(T), 432(h), or 487(c);

''(E) in the opinion of the Secretary, has not had significant deficiencies identified by a State postsecondary review entity under subpart 1 of part H of this title;

''(F) in the opinion of the Secretary, has not had severe performance deficiencies for any of the programs under this title, including such deficiencies demonstrated by audits or program reviews submitted or conducted during the 5

calendar years immediately preceding the date of application;

''(G) provides an assurance that such institution has no delinquent outstanding debts to the Federal Government, unless such debts are being repaid under or in accordance with a repayment arrangement satisfactory to the Federal Government, or the Secretary in the Secretary's discretion determines that the existence or amount of such debts has not been finally determined by the cognizant Federal agency; and

''(H) meets such other criteria as the Secretary may establish to protect the financial interest of the United States and to promote the purposes of this part.

''(3) REGULATIONS GOVERNING APPROVAL AFTER TRANSACTION.—For academic year 1995–1996 and subsequent academic years, the Secretary shall promulgate and publish in the Federal Register regulations governing the approval of institutions to originate loans under this part in accordance with section 458(a)(2).

''(d) CONSORTIA.—Subject to such requirements as the Secretary may prescribe, eligible institutions of higher

education with agreements under section 454(a) may apply to the Secretary as consortia to originate loans under this part for students in attendance at such institutions. Such institutions shall each be required to meet the requirements of subsection (c) with respect to loan origination.

"SEC. 454. AGREEMENTS WITH INSTITUTIONS.

''(a) PARTICIPATION AGREEMENTS.—An agreement with any institution of higher education for participation in the direct student loan program under this part shall—

''(1) provide for the establishment and maintenance of a direct student loan program at the institution under which the institution will—

''(A) identify eligible students who seek student financial assistance at such institution in accordance with section 484;

''(B) estimate the need of each such student as required by part F of this title for an academic year, except that, any loan obtained by a student under this part with the same terms as loans made under section 428H (except as otherwise provided in this part), or a loan obtained by a parent under this part with the same terms as loans made under section 428B (except as otherwise provided in this

part), or obtained under any State-sponsored or private loan program, may be used to offset the expected family contribution of the student for that year;

''(C) provide a statement that certifies the eligibility of any student to receive a loan under this part that is not in excess of the annual or aggregate limit applicable to such loan, except that the institution may, in exceptional circumstances identified by the Secretary, refuse to certify a statement that permits a student to receive a loan under this part, or certify a loan amount that is less than the student's determination of need (as determined under part F of this title), if the reason for such action is documented and provided in written form to such student;

''(D) set forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G (other than subsection (b)(1) of such section); and

''(E) provide timely and accurate information—

''(i) concerning the status of student borrowers (and students on whose behalf parents borrow under this part) while such students are in attendance at the institution and concerning any new information of which the institution becomes aware for such students (or their parents) after such borrowers leave the institution, to the Secretary for the servicing and collecting of loans made under this part; and

''(ii) if the institution does not have an agreement with the Secretary under subsection (b), concerning student eligibility and need, as determined under subparagraphs (A) and (B), to the Secretary as needed for the alternative origination of loans to eligible students and parents in accordance with this part;

''(2) provide assurances that the institution will comply with requirements established by the Secretary relating to student loan information with respect to loans made under this part;

''(3) provide that the institution accepts responsibility and financial liability stemming from its fail-

ure to perform its functions pursuant to the agreement;

''(4) provide that students at the institution and their parents (with respect to such students) will be eligible to participate in the programs under part B of this title at the discretion of the Secretary for the period during which such institution participates in the direct student loan program under this part;

''(5) provide for the implementation of a quality assurance system, as established by the Secretary and developed in consultation with institutions of higher education, to ensure that the institution is complying with program requirements and meeting program objectives;

''(6) provide that the institution will not charge any fees of any kind, however described, to student or parent borrowers for origination activities or the provision of any information necessary for a student or parent to receive a loan under this part, or any benefits associated with such loan; and

''(7) include such other provisions as the Secretary determines are necessary to protect the interests of the United States and to promote the purposes of this part.

''(b) ORIGINATION.—An agreement with any institution of higher education, or consortia thereof, for the origination of loans under this part shall—

''(1) supplement the agreement entered into in accordance with subsection (a);

''(2) include provisions established by the Secretary that are similar to the participation agreement provisions described in paragraphs (1)(E)(ii), (2), (3), (4), (5), (6), and (7) of subsection (a), as modified to relate to the origination of loans by the institution or consortium;

''(3) provide that the institution or consortium will originate loans to eligible students and parents in accordance with this part; and

''(4) provide that the note or evidence of obligation on the loan shall be the property of the Secretary.

''(c) WITHDRAWAL AND TERMINATION PROCEDURES.—The Secretary shall establish procedures by which institutions or consortia may withdraw or be terminated from the program under this part.

''SEC. 455. TERMS AND CONDITIONS OF LOANS.

''(a) IN GENERAL.—

''(1) PARALLEL TERMS, CONDITIONS, BENEFITS, AND AMOUNTS.—Unless otherwise specified in

this part, loans made to borrowers under this part shall have the same terms, conditions, and benefits as loans made to borrowers under sections 428, 428B, and 428H of this title.

''(2) DESIGNATION OF LOANS.—Loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under—

''(A) section 428 shall be known as 'Federal Direct Stafford Loans';

''(B) section 428B shall be known as 'Federal Direct PLUS Loans'; and

''(C) section 428H shall be known as 'Federal Direct Unsubsidized Stafford Loans'.

''(b) INTEREST RATE.—

''(1) RATES FOR FDSL AND FDUSL.—(A) For Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 3.1 percent,

except that such rate shall not exceed 8.25 percent.

"(B)(i) Notwithstanding the provisions of subparagraph (A), with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest for interest which accrues—

"(I) prior to the beginning of the repayment period of the loan; or

"(II) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall not exceed the rate determined under clause (ii).

"(ii) For purposes of clause (i) the rate determined under this clause shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(I) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

"(II) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

"(2) RATES FOR FDPLUS.—For Federal Direct PLUS Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of 52-week Treasury bills auctioned at final auction held prior to such June 1; plus

"(B) 3.1 percent,

except that such rate shall not exceed 9 percent.

"(3) PUBLICATION.—The Secretary shall determine the applicable rates of interest under this subsection after consultation with the Secretary of Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

"(c) ORIGINATION FEE.—The Secretary shall charge the borrower of a loan made under this part an origination fee of 4.0 percent of the principal amount of the loan.

''(d) REPAYMENT PLANS.—

''(1) DESIGN AND SELECTION.—Consistent with criteria established by the Secretary, the Secretary shall offer a borrower of a loan made under this part a variety of plans for repayment of such loan, including principal and interest on the loan. The borrower shall be entitled to accelerate, without penalty, repayment on the borrowers loans under this part. The borrower may choose—

''(A) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time;

''(B) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, except that the borrower shall annually repay a minimum amount determined by the Secretary in accordance with section 428(b)(1)(L);

''(C) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over a fixed or extended period of time, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed

would be if the loan were repaid under the standard repayment plan; and

''(D) an income contingent repayment plan, with varying annual repayment amounts based on the income of the borrower, paid over an extended period of time, not to exceed 20 years, except that the plan described in this subparagraph shall not be available to the borrower of a Federal Direct PLUS loan.

''(2) SELECTION BY SECRETARY.—If a borrower of a loan made under this part does not select a repayment plan described in paragraph (1), the Secretary may provide the borrower with a repayment plan described in subparagraph (A), (B), or (C) of paragraph (1).

''(3) CHANGES IN SELECTIONS.—The borrower of a loan made under this part may change the borrower's selection of a repayment plan under paragraph (1), or the Secretary's selection of a plan for the borrower under paragraph (2), as the case may be, under such terms and conditions as may be established by the Secretary.

''(4) ALTERNATIVE REPAYMENT PLANS.—The Secretary may provide, on a case by case basis, an alternative repayment plan to a borrower of a loan

made under this part who demonstrates to the satisfaction of the Secretary that the terms and conditions of the repayment plans available under paragraph (1) are not adequate to accommodate the borrower's exceptional circumstances. In designing such alternative repayment plans, the Secretary shall ensure that such plans do not exceed the cost to the Federal Government, as determined on the basis of the present value of future payments by such borrowers, of loans made using the plans available under paragraph (1).

''(5) REPAYMENT AFTER DEFAULT.—The Secretary may require any borrower who has defaulted on a loan made under this part to—

''(A) pay all reasonable collection costs associated with such loan; and

''(B) repay the loan pursuant to an income contingent repayment plan.

''(e) INCOME CONTINGENT REPAYMENT.—

''(1) INFORMATION AND PROCEDURES.—The Secretary may obtain such information as is reasonably necessary regarding the income of a borrower (and the borrower's spouse, if applicable) of a loan made under this part that is, or may be, repaid pursuant to income contingent repayment, for the pur-

pose of determining the annual repayment obligation of the borrower. Return and return information (as defined in section 6103 of the Internal Revenue Code of 1986) may be obtained under the preceding sentence only to the extent authorized by section 6103(l)(13) of such Code. The Secretary shall establish procedures for determining the borrower's repayment obligation on that loan for such year, and such other procedures as are necessary to implement effectively income contingent repayment.

''(2) REPAYMENT BASED ON ADJUSTED GROSS INCOME.—A repayment schedule for a loan made under this part and repaid pursuant to income contingent repayment shall be based on the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of the borrower or, if the borrower is married and files a Federal income tax return jointly with the borrower's spouse, on the adjusted gross income of the borrower and the borrower's spouse.

''(3) ADDITIONAL DOCUMENTS.—A borrower who chooses, or is required, to repay a loan made under this part pursuant to income contingent repayment, and for whom adjusted gross income is unavailable or does not reasonably reflect the borrow-

er's current income, shall provide to the Secretary other documentation of income satisfactory to the Secretary, which documentation the Secretary may use to determine an appropriate repayment schedule.

''(4) REPAYMENT SCHEDULES.—Income contingent repayment schedules shall be established by regulations promulgated by the Secretary and shall require payments that vary in relation to the appropriate portion of the annual income of the borrower (and the borrower's spouse, if applicable) as determined by the Secretary.

''(5) CALCULATION OF BALANCE DUE.—The balance due on a loan made under this part that is repaid pursuant to income contingent repayment shall equal the unpaid principal amount of the loan, any accrued interest, and any fees, such as late charges, assessed on such loan. The Secretary may promulgate regulations limiting the amount of interest that may be capitalized on such loan, and the timing of any such capitalization.

''(6) NOTIFICATION TO BORROWERS.—The Secretary shall establish procedures under which a borrower of a loan made under this part who chooses or is required to repay such loan pursuant to income contingent repayment is notified of the terms and

conditions of such plan, including notification of such borrower—

''(A) that the Internal Revenue Service will disclose to the Secretary tax return information as authorized under section 6103(l)(13) of the Internal Revenue Code of 1986; and

''(B) that if a borrower considers that special circumstances, such as a loss of employment by the borrower or the borrower's spouse, warrant an adjustment in the borrower's loan repayment as determined using the information described in subparagraph (A), or the alternative documentation described in paragraph (3), the borrower may contact the Secretary, who shall determine whether such adjustment is appropriate, in accordance with criteria established by the Secretary.

''(f) DEFERMENT.—

''(1) EFFECT ON PRINCIPAL AND INTEREST.—A borrower of a loan made under this part who meets the requirements described in paragraph (2) shall be eligible for a deferment, during which periodic installments of principal need not be paid, and interest—

''(A) shall not accrue, in the case of a Federal Direct Stafford Loan or a Federal Direct Consolidation Loan that consolidated only Federal Direct Stafford Loans, or a combination of such loans and Federal Stafford Loans for which the student borrower received an interest subsidy under section 428; or

''(B) shall accrue and be capitalized or paid by the borrower, in the case of a Federal Direct PLUS Loan, a Federal Direct Unsubsidized Stafford Loan, or a Federal Direct Consolidation Loan other than loans described in subparagraph (A).

''(2) ELIGIBILITY.—A borrower of a loan made under this part shall be eligible for a deferment during any period—

''(A) during which the borrower—

''(i) is carrying at least one-half the normal full-time work load for the course of study that the borrower is pursuing, as determined by the eligible institution (as such term is defined in section 435) the borrower is attending; or

''(ii) is pursuing a course of study pursuant to a graduate fellowship program

approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this subparagraph, or a loan made under this part (other than a Federal Direct PLUS Loan or a Federal Direct Consolidation Loan), while serving in a medical internship or residency program;

''(B) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

''(C) not in excess of 3 years during which the Secretary determines, in accordance with regulations prescribed under section 435(o), that the borrower has experienced or will experience an economic hardship, regardless of the reason for such hardship.

''(g) FEDERAL DIRECT CONSOLIDATION LOANS.—A borrower of a loan made under this part may consolidate such loan with the loans described in section 428C(a)(4) and section 428C(d)(1)(C) only under such terms and conditions as the Secretary shall establish pursuant to regulations promulgated under this part. Loans made under this

subsection shall be known as 'Federal Direct Consolidation Loans'.

''(h) BORROWER DEFENSES.—Notwithstanding any other provision of law, the Secretary shall specify in regulations (except as authorized under section 458(a)), which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under this part, except that in no event may a borrower recover from the Secretary, in any action arising from or relating to a loan made under this part, an amount in excess of the amount such borrower has repaid on such loan.

''(i) OPTICALLY IMAGED DOCUMENTS.—Records maintained in accordance with section 484A(c) may be used in any proceeding, as permitted pursuant to section 484A(c), with respect to a loan made under this part.

''(j) NONDISCHARGEABILITY IN BANKRUPTCY.—Notwithstanding any other provision of law, a loan made under this part shall not be dischargeable in any Federal or State bankruptcy proceeding.

''(k) LOAN APPLICATION AND PROMISSORY NOTE.—The common financial reporting form required in 483(a)(1) shall constitute the application for loans made under this part. The Secretary shall develop, print, and

distribute to participating institutions a standard promissory note and loan disclosure form.

''(l) LOAN DISBURSEMENT.—

''(1) IN GENERAL.—Payments of loan proceeds to students under this part shall be made by crediting the student's account for tuition and fees, and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account. Loan proceeds that remain after the application of the previous sentences shall be delivered to the borrower in accordance with section 427(a)(3).

''(2) PAYMENT PERIODS.—The Secretary shall establish periods for the payments described in paragraph (2) in a manner that is consistent with payment of basic grants under subpart 1 of part A.

''(m) FISCAL CONTROL AND FUND ACCOUNTABILITY.—

''(1) IN GENERAL.—(A) An institution shall maintain financial records in a manner consistent with records maintained for other programs under title IV.

''(B) An institution may maintain loan funds under this part in the same account as other Federal student financial assistance.

''(2) PAYMENTS; REFUNDS; ENROLLMENT STATUS.—Payments, refunds and enrollment status shall be reconciled in a manner and schedule that is consistent with the manner and schedule set forth for the quarterly submission of a payment summary report required of institutions participating in the program assisted under subpart 1 of part A.

''(3) TRANSACTION HISTORIES.—All transaction histories under this part shall be maintained using the same system designated by the Secretary for the provision of basic grants under subpart 1 of part A.

''(n) ENTITLEMENT PROVISION.—Except as provided in section 454(a)(1)(C), an eligible student in attendance at a participating institution (or a parent borrower) shall have a contractual right against the United States to receive any loan under this part for which such student (or parent) is eligible.

''SEC. 456. CONTRACTS.

''(a) CONTRACTS FOR SUPPLIES AND SERVICES.—

''(1) IN GENERAL.—The Secretary may award 1 or more contracts for services and supplies described in subsection (b). The entities with which the

Secretary may enter into such contracts shall include entities which the Secretary determines are qualified to provide such services and supplies and will comply with the procedures applicable to the award of such contracts. In the case of awarding contracts for the servicing of loans under this part, the Secretary shall only enter into contracts with entities that have extensive experience and a demonstrated record in loan servicing and collection.

''(2) EXEMPTION.—The Secretary may award, through June 30, 1998, contracts under this section without regard to the requirements in section 303 of the Federal Property and Administrative Services Act of 1949, section 18 of the Office of Federal Procurement Policy Act, and section 8(e) of the Small Business Act, and the corresponding requirements of the Federal Acquisition Regulations, if the Secretary determines, on a case-by-case basis, that exemption from such requirements is in the public interest and necessary for the orderly transition from the loan programs under part B to the direct student loan program under this part.

''(3) APPLICATION OF REQUIREMENTS.—On and after July 1, 1998, all statutory and regulatory

requirements described in paragraph (2) shall apply to the award of a contract under this section.

''(b) CONTRACTS FOR ORIGINATION, SERVICING, AND DATA SYSTEMS.—The Secretary may enter into 1 or more contracts for—

''(1) the alternative origination of loans to students attending institutions with agreements to participate in the program under this part (or their parents), if such institutions do not have agreements with the Secretary under section 454(b);

''(2) the servicing and collection of loans made under this part;

''(3) the establishment and operation of 1 or more data systems for the maintenance of records on all loans made under this part;

''(4) services to assist in the orderly transition from the loan programs under part B to the direct student loan program under this part; and

''(5) such other aspects of the direct student loan program as the Secretary determines are necessary to ensure the successful operation of the program.

"SEC. 457. PLAN FOR IRS PARTICIPATION AND OTHER REPAYMENT OPTIONS.

''(a) IN GENERAL.—The Secretaries of Education and the Treasury shall, within 6 months of the date of enactment of this part, submit a plan to the President that—

''(1) provides for—

''(A) repayment of loans made under this part through wage withholding by the Internal Revenue Service;

''(B) procedures for the resolution of disputes through the Secretary of Education; and

''(C) an alternate system of fees and penalties, which shall not include the seizure of real property, by the Internal Revenue Service for the nonpayment of amounts due; and

''(2) evaluates the feasibility of other wage-withholding repayment options for such loans.

''(b) PRESIDENTIAL DETERMINATION.—If the President determines that the implementation of 1 or more repayment options contained in the plan described in subsection (a) would further the purposes of this part, the Secretaries of Education and the Treasury shall be authorized to take such actions as are reasonable and necessary to implement such repayment options, including en-

tering into an agreement pursuant to section 6306 of the Internal Revenue Code of 1986.

''(c) FUNDING.—The Secretary of Education may use such amounts as the Secretary of Education determines necessary from the funds made available under section 460 to implement the repayment options selected by the President under subsection (b) and shall make available to the Secretary of the Treasury such amounts from the funds made available under section 460 as the Secretaries determine to be necessary to implement the repayment options carried out by the Internal Revenue Service.

''SEC. 458. SECRETARIAL ACTIVITIES.

''(a) REGULATORY ACTIVITIES.—

''(1) NOTICE IN LIEU OF REGULATIONS FOR FIRST YEAR OF PROGRAM.—The Secretary shall publish in the Federal Register whatever standards, criteria, and procedures, consistent with the provisions of this part, that the Secretary, in consultation with members of the higher education community, determine are reasonable and necessary to the successful implementation of the direct student loan program under this part in academic year 1994–1995. Section 431 of the General Education Provisions Act shall not apply to the publication of such standards, criteria, and procedures.

"(2) NEGOTIATED RULEMAKING.—Beginning with academic year 1995–1996, all standards, criteria, procedures and regulations implementing this part shall be subject to negotiated rulemaking, including all such standards, criteria, procedures and regulations promulgated from the date of enactment of this part.

"(b) CLOSING DATE FOR APPLICATIONS FROM INSTITUTIONS.—The Secretary shall establish a date not later than October 1, 1993, as the closing date for receiving applications from institutions of higher education desiring to participate in the direct loan program under this part in academic year 1994–1995.

"(c) PUBLICATION OF LIST OF PARTICIPATING INSTITUTIONS AND CONTROL GROUP.—Not later than January 1, 1994, the Secretary shall publish in the Federal Register a list of the institutions of higher education selected to participate in the direct loan program under this part in academic year 1994–1995.

"SEC. 459. REPORTS.

"(a) ANNUAL REPORTS.—The Secretary shall submit to the Congress not later than July 1, 1994, and each July 1 for the 4 succeeding years an annual report describing the progress and status of the direct loan program.

"(b) RESEARCH, DEMONSTRATION, AND EVALUATION.—The Secretary may use a portion of the funds made available pursuant to section 460 for research on, or the demonstration or evaluation of, any aspects of the program authorized by this part, including flexible repayment plans.

"(c) GAO INTERIM FINAL REPORT.—The Comptroller General shall submit to the Congress not later than January 1, 1997, an interim final report evaluating the experience of the Department of Education, the participating institutions of higher education, students, and parents with respect to the direct student loan program. The report shall include—

"(1) the administrative costs, including costs per loan, incurred by participating institutions of higher education in administering the direct student loan program;

"(2) the administrative costs, including costs per loan, incurred by the Department of Education and its contractors in carrying out its responsibilities, including the costs of origination, data systems, servicing, and collection;

"(3) an evaluation of the effectiveness of the direct student loan program in providing services to students and parents, including loan application,

loan origination, student financial aid packaging, tracking of student status, responsiveness to student inquiries and processing of deferments, forbearances, and repayments;

''(4) the frequency and cost of borrower delinquency and default under the direct student loan program and losses incurred by institutions of higher education and servicers, including losses caused by improper origination or servicing of loans;

''(5) the timeliness of capital availability to institutions of higher education and of loans to students and parents and the cost of loan capital;

''(6) an evaluation of the effectiveness of the income contingent repayment option;

''(7) a comparison of the experience of institutions of higher education, students, and parents participating in direct student loan program with the experience of institutions, students, and parents in the control group described in subsection (e) with respect to the subjects indicated in paragraphs (1) through (6) of this subsection;

''(8) an evaluation of the administrative performance of the Department;

''(9) an analysis of the reasons institutions selected by the Secretary to participate in the direct

student loan program chose not to participate and the reasons institutions withdrew or were terminated from such program;

''(10) an analysis of the experience of borrowers with loans under both this part and part B and recommendations for the most effective repayment procedures for such borrowers;

''(11) a comparison of the cost of loan capital for loans for the direct student loan program with the cost of loan capital for the comparable programs in part B of this title;

''(12) an analysis, where practicable, of the experience of institutions which participate as part of a consortia; and

''(13) recommendations for modifications, continuation, expansion, suspension, or termination of the direct student loan program or replacement of all or some of the programs authorized by part B.

''(d) GAO FINAL REPORT.—The Comptroller General shall submit to the Congress not later than May 1, 1998, a final report evaluating the experience of the Department of Education, the participating institutions of higher education, and students with respect to the direct student loan program. The report shall include the same matters provided for in subsection (c) of this section.

"(e) CONTROL GROUP.—To assist the Comptroller General in preparing the reports required by subsections (c) and (d) of this section, the Secretary shall select a control group of institutions of higher education, which represent a cross-section of all institutions of higher education participating in part B of this title and which is comparable to the cross-section of institutions of higher education selected for participating in the direct student loan program. The Secretary shall select the control groups in the same manner that the institutions of higher education are selected to participate in the direct student loan program.

"(f) TREATMENT OF COSTS.—In reporting with respect to costs in the reports required by subsections (c) and (d) of this section, the Comptroller General shall report separately the nonrecurrent costs such as start-up costs associated with the direct student loan program, the administrative costs incurred by institutions of higher education in providing information to enable the Comptroller General to prepare the reports required by subsections (c) and (d) of this section and the normal costs of operating the direct student loan program.

"SEC. 460. FUNDS FOR ADMINISTRATIVE EXPENSES.

"(a) IN GENERAL.—In each fiscal year beginning with fiscal year 1994, there shall be available to the Sec-

retary of Education from funds not otherwise appropriated, funds to be obligated for administrative costs under this part, including the costs of the transition from the loan programs under part B to the direct student loan program under this part and transition support for the expenses of guaranty agencies in servicing outstanding loans in their portfolios and in guaranteeing new loans, not to exceed $20,000,000 in fiscal year 1994, $70,000,000 in fiscal year 1995, $170,000,000 in fiscal year 1996, $305,000,000 in fiscal year 1997, and $480,000,000 in fiscal year 1998. If in any fiscal year, the Secretary determines that additional funds for administrative expenses are needed as a result of such transition, or the expansion of the direct student loan program under this part, the Secretary is authorized to use funds available under this section for any succeeding fiscal year for such expenses, except that the total expenditures by the Secretary shall not exceed $1,045,000,000 in fiscal years 1994 through 1998.

''(b) AVAILABILITY.—Funds made available under subsection (a) shall remain available until expended.

''(c) BUDGET JUSTIFICATION.—The Secretary shall include in the Department of Education's annual budget justification to Congress a detailed description of the specific activities for which the funds made available by this

section have been used in the prior and current years (if applicable), the activities and costs planned for the budget year, and the projection of activities and costs for each remaining year for which administrative expenses under this section are made available.

''(d) NOTIFICATION.—In the event the Secretary finds it necessary to use the authority provided to the Secretary under subsection (a) to draw funds for administrative expenses from a future year's funds, the Secretary shall immediately notify the Committees on Appropriations of the Senate and of the House of Representatives, and the Labor and Human Resources Committee of the Senate and the Education and Labor Committee of the House of Representatives, of such action and explain the reasons for such action.

"SEC. 460A. NATIONAL STUDENT LOAN REFORM COMMISSION.

''(a) ESTABLISHMENT.—There is hereby established a bipartisan commission to be known as the National Student Loan Reform Commission (hereafter in this section referred to as the 'Commission').

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Commission shall be composed of 15 members appointed by the President with the advice and consent of the Senate who are

representative of a broad combination of types of institutions of higher education, of whom at least 8 members shall be financial aid administrators.

''(2) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

''(3) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

''(4) MEETINGS.—The Commission shall meet at the call of the Chairman.

''(5) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

''(6) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

''(c) DUTIES.—The Commission shall—

''(1) advise the President and the Congress on the operation of the Federal Direct Student Loan Program and the Federal Family Education Loan Program;

''(2) evaluate and report to the Congress regarding such programs on not less than an annual basis; and

''(3) not later than January 1, 1997, report to the President and the Congress with final recommendations on the advisability of replacing the Federal Family Education Loan Program with direct lending.

''(d) POWERS OF THE COMMISSION.—

''(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

''(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

''(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and

under the same conditions as other departments and agencies of the Federal Government.

''(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

''(e) COMMISSION PERSONNEL MATTERS.—

''(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

''(2) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while

away from their homes or regular places of business in the performance of services for the Commission.

''(3) STAFF.—

''(A) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

''(B) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

''(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such

detail shall be without interruption or loss of civil service status or privilege.

''(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

''(6) AUTHORITY TO CONTRACT.—Subject to the Federal Property and Administrative Services Act of 1949, the Commission is authorized to enter into contracts with Federal and State agencies, private firms, institutions and individuals for the conduct of activities necessary to the discharge of its duties and responsibilities.

''(7) SOURCE OF ADMINISTRATIVE SUPPORT.—Financial and administrative support services (including those related to budget and accounting, financial reporting, payroll, and personnel) shall be provided to the Commission by the General Services Administration (or other organization the Commission determines appropriate) for which payment shall be made in advance or by reimbursement, from

funds of the Commission, in such amounts as may be agreed by the Chairman of the Commission and the Administrator of General Services (or head of another organization the Commission determines appropriate).

''(f) TERMINATION OF THE COMMISSION.—The Commission shall terminate 18 months after the date on which the Commission submits its report under subsection (c)(3).

''(g) FUNDS FOR EXPENSES OF THE COMMISSION.—In each fiscal year beginning with fiscal year 1994, there shall be available to the Secretary from funds not otherwise appropriated, funds to be obligated for the costs of activities assisted under this section, not to exceed $2,000,000 in each of the fiscal years 1994, 1995, 1996, 1997 and 1998.''.

CHAPTER 2—STUDENT LOAN SAVINGS

SEC. 12021. SECRETARY'S EQUITABLE SHARE.

Section 428(c)(6)(A)(ii) of the Act (20 U.S.C. 1078(c)(6)(A)(ii)) is amended by striking ''30 percent'' and inserting ''27 percent''.

SEC. 12022. INTEREST RATES.

Section 427A of the Higher Education Act of 1965 (20 U.S.C. 1077a) is amended—

(1) in subsection (c)(4), by adding at the end the following new subparagraph:

''(E) Notwithstanding subparagraphs (A) and (D) for any loan made pursuant to section 428B for which the first disbursement is made on or after July 1, 1994—

''(i) subparagraph (B) shall be applied by substituting ''3.1'' for ''3.25''; and

''(ii) the interest rate shall not exceed 9 percent.'';

(2) by redesignating subsections (f), (g) and (h) as subsections (g), (h) and (j), respectively;

(3) by adding after subsection (e) the following new subsection:

''(f) INTEREST RATES FOR NEW LOANS AFTER JULY 1, 1994.—

''(1) IN GENERAL.—Notwithstanding subsections (a), (b), (d) and (e) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to sections 428B and 428C) for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30,

be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(B) 3.10 percent,

except that such rate shall not exceed 8.25 percent.

"(2) CONSULTATION.—The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination."; and

(4) by inserting after subsection (h) (as redesignated in paragraph (2)) the following new subsection:

"(i) IN-SCHOOL AND GRACE PERIOD INTEREST RATES.—

"(1) APPLICABLE RATE.—Notwithstanding any other provision of this section, with respect to any loan for which the first disbursement is made on or after October 1, 1993, the applicable rate of interest for interest which accrues—

"(A) prior to the beginning of the repayment period of the loan; or

"(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall not exceed the rate determined under paragraph (2).

"(2) METHOD OF CALCULATION.—For purposes of paragraph (1) the rate determined under this paragraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

"(B) 2.5 percent,

except that such rate shall not exceed 8.25 percent.".

SEC. 12023. LENDER AND STUDENT LOAN FEES.

Section 438 of the Act (20 U.S.C. 1087–1) is amended—

(1) in the heading of subsection (c) by inserting "FROM STUDENTS" after "ORIGINATION FEES";

(2) in subsection (c)—

(A) in paragraph (2)—

(i) by striking ''428B,'';

(ii) by inserting '', and part D'' after ''439(o)''; and

(iii) by striking ''5 percent'' and inserting ''3.0 percent'';

(B) in paragraph (6), by striking ''5 percent'' and inserting ''3.0 percent'';

(3) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(4) by inserting after subsection (c) the following new subsection:

''(d) LOAN FEES FROM LENDERS.—

''(1) DEDUCTION FROM INTEREST AND SPECIAL ALLOWANCE SUBSIDIES.—Notwithstanding subsection (b), the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, to any holder shall be reduced by the Secretary by a loan fee in an amount determined in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, is less than the amount of such loan fee, then the Secretary shall deduct such excess

amount from subsequent quarters' payments until the total amount has been deducted.

''(2) AMOUNT OF LOAN FEES.—With respect to any loan under this part (other than loans made under sections 428B, 428C and 439(o)) for which a note or other written evidence of the loan was sent or delivered to the borrower for signing on or after October 1, 1993, the amount of the loan fee which shall be deducted under paragraph (1) shall be equal to .50 percent of the principal amount of the loan.

''(3) PLUS, CONSOLIDATION, SLMA LOANS.—With respect to any loans made under section 428B, 428C, and 439 on or after October 1, 1993, each eligible lender under this part shall pay to the Secretary a loan fee of .50 percent of the principal amount of the loan.

''(4) DISTRIBUTION OF LOAN FEES.—The Secretary shall deposit all fees collected pursuant to paragraph (3) into the insurance fund established in section 431.''.

SEC. 12024. OFFSET FEE.

Subsection (h) of section 439 of the Act (20 U.S.C. 1087–2(h)) is amended by adding at the end the following new paragraph:

"(6) OFFSET FEE.—(A) The Association shall pay to the Secretary, on a monthly basis, an offset fee calculated on an annual basis in an amount equal to 0.30 percent of the principal amount of each loan made, insured or guaranteed under this part which the Association holds on or after the date of enactment of this paragraph.

"(B) The Secretary shall deposit all fees collected pursuant to subparagraph (A) into the insurance fund established in section 431.".

SEC. 12025. ELIMINATION OF TAX EXEMPT FLOOR.

Section 438(b)(2)(B) of the Act (20 U.S.C. 1087–1(b)(2)(B)) is amended by adding at the end the following new clause:

"(iv) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance for holders of loans which are financed with funds obtained by the holder from the issuance of obligations originally issued on or after October 1, 1993, the income from which is excluded from gross income under the Internal Revenue Code of 1986, shall be 85 percent of the quarterly rate of the special allowance established under subparagraph (A). Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from col-

lections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds.''.

SEC. 12026. REDUCTION IN INTEREST RATE FOR CONSOLIDATION LOANS; REBATE FEE.

(a) AMENDMENT.—Section 428C of the Act (20 U.S.C. 1078–3) is amended—

(1) in paragraph (1) of subsection (c)—

(A) in subparagraph (A), by striking ''or (C)'';

(B) by amending subparagraph (B) to read as follows:

''(B) A consolidation loan made on or after October 1, 1993, shall bear interest on the unpaid principal balance of the loan, during any 12-month period beginning on July 1 and ending on June 30, determined on the preceding June 1, which interest shall be equal to—

''(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

''(ii) 3.10 percent,

except that such rate shall not exceed 9 percent.''; and

(C) by striking subparagraph (C); and

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

''(f) INTEREST PAYMENT REBATE FEE.—

''(1) IN GENERAL.—Each holder of a consolidation loan under this section shall pay to the Secretary, on a monthly basis and in such manner as the Secretary shall prescribe, a rebate fee calculated on an annual basis equal to 0.70 percent of the principal plus accrued unpaid interest on such loan.

''(2) DEPOSIT.—The Secretary shall deposit all fees collected pursuant to subsection (a) into the insurance fund established in section 431.''.

(b) ENFORCEMENT.—Subsection (d) of section 435 of the Act (20 U.S.C. 1085(d)) is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1), by striking ''(5)'' and inserting ''(6)''; and

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

''(6) REBATE FEE REQUIREMENT.—To be an eligible lender under this part, an eligible lender

shall pay rebate fees in accordance with section 428C(f).''.

SEC. 12027. INSURANCE PREMIUM.

(a) INSURANCE PREMIUM.—Section 428(b)(1)(H) of the Act (20 U.S.C. 1078(b)(1)(H)) is amended by striking ''3 percent'' and inserting ''1 percent''.

(b) REINSURANCE FEES.—Section 428(c) of the Act is amended—

(1) by striking paragraph (9); and

(2) by redesignating paragraph (10) as paragraph (9).

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on July 1, 1994.

SEC. 12028. LOAN TRANSFER FEE.

Section 428(b)(2) of the Act (20 U.S.C. 1078(b)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting ''; and''; and

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

''(G) provide that, if a lender or holder, on or after October 1, 1993, sells, transfers, or assigns a loan under this part, then the transferee

shall pay to the Secretary a transfer fee in an amount equal to 0.25 percent the principal and accrued unpaid interest of the loan, which transfer fee shall be deposited into the insurance fund established in section 431, except that the provisions of this subparagraph shall not apply to any such sale, transfer or assignment by a lender or holder to such lender's or holder's affiliate or pursuant to—

''(i) a merger or other consolidation transaction; or

''(ii) a sale or other transfer of all or any substantial portion of such lender's or holder's business or student lending business.''.

SEC. 12029. RISK SHARING.

(a) GUARANTY AGENCY REINSURANCE PERCENTAGE.—Section 428(c)(1) of the Act (20 U.S.C. 1078(c)(1)) is amended—

(1) in subparagraph (A), by striking ''100 percent'' and inserting ''98 percent'';

(2) in subparagraph (B)(i), by striking ''90 percent'' and inserting ''88 percent'';

(3) in subparagraph (B)(ii), by striking ''80 percent'' and inserting ''78 percent''; and

(4) by adding at the end the following new subparagraphs:

''(E) Notwithstanding any other provisions of this section, in the case of a loan made pursuant to a lender of last resort program, the Secretary shall apply the provisions of—

''(i) the fourth sentence of subparagraph (A) by substituting '100 percent' for '98 percent';

''(ii) subparagraph (B)(i) by substituting '100 percent' for '88 percent'; and

''(iii) subparagraph (B)(ii) by substituting '100 percent' for '78 percent'.

''(F) Notwithstanding any other provisions of this section, in the case of an outstanding loan transferred to a guaranty agency from another guaranty agency pursuant to a plan approved by the Secretary in response to the insolvency of the latter such guarantee agency, the Secretary shall apply the provision of—

''(i) the fourth sentence of subparagraph (A) by substituting '100 percent' for '98 percent';

''(ii) subparagraph (B)(i) by substituting '90 percent' for '88 percent'; and

''(iii) subparagraph (B)(ii) by substituting '80 percent' for '78 percent'.''.

(b) RISK SHARING BY THE STUDENT LOAN MARKETING ASSOCIATION.—Section 428(b)(1)(G) of the Act (20 U.S.C. 1078(b)(1)(G)) is amended by inserting before the semicolon at the end thereof the following: '', except that for loans held by the Student Loan Marketing Association (other than loans made with advances to guaranty agencies pursuant to section 439(p)) such percentage shall be 95 percent''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any loan made on or after October 1, 1993.

SEC. 12030. PLUS LOAN AMOUNTS AND DISBURSEMENTS.

(a) LOAN AMOUNTS.—

(1) AMENDMENT.—Section 428B(b) of the Act (20 U.S.C. 1078–2(b)) is amended to read as follows:

''(b) LIMITATIONS ON AMOUNTS OF LOANS.—

''(1) ANNUAL LIMIT.—Subject to paragraph (2), the maximum amount parents may borrow for one student in any academic year or its equivalent

(as defined by regulation of the Secretary) is $10,000.

''(2) LIMITATION BASED ON NEED.—Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any parent under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 428(a)(2)(A). The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective for loans made on or after July 1, 1994.

(b) MULTIPLE DISBURSEMENT REQUIRED.—

(1) AMENDMENT.—The matter preceding paragraph (1) of section 428B(c) of the Act (20 U.S.C. 1078–2(c)) is amended by inserting ''shall be disbursed in accordance with the requirements of section 428G and'' after ''under this section''.

(2) CONFORMING AMENDMENTS.—Section 428G(e) of the Act (20 U.S.C. 1078–7(e) is amended—

(A) by striking ''PLUS, CONSOLIDATION,'' and inserting ''CONSOLIDATION''; and

(B) by striking ''section 428B or 428C'' and inserting ''section 428C''.

CHAPTER 3—CONFORMING AMENDMENTS

Subchapter A—Conforming Amendments to the Higher Education Act of 1965

SEC. 12041. PRESERVING LOAN ACCESS.

(a) PURPOSE.—It is the purpose of the amendments made by this section to provide the Secretary with flexible authority as needed to preserve access to student and parent loans under part B of title IV of the Act during the transition from the Federal Family Education Loan Program under such part to the Federal Direct Student Loan Program under part D of such title.

(b) ADVANCES TO GUARANTY AGENCIES FOR LENDER-OF-LAST-RESORT SERVICES.—

(1) AMENDMENT.—Section 428(j) of the Act (20 U.S.C. 1078(j)) is amended by adding at the end the following new paragraph:

''(4) ADVANCES TO GUARANTY AGENCIES FOR LENDER-OF-LAST-RESORT SERVICES DURING TRANSITION TO

DIRECT LENDING.—(A) In order to ensure the availability of loan capital during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title, the Secretary is authorized to provide a guaranty agency with additional advance funds in accordance with section 422(c)(7), with such restrictions on the use of such funds as are determined appropriate by the Secretary, in order to ensure that the guaranty agency will make loans as the lender-of-last-resort. Such agency shall make such loans in accordance with this subsection and the requirements of the Secretary.

''(B) Notwithstanding any other provision in this part, a guaranty agency serving as a lender-of-last-resort under this paragraph shall be paid a fee, established by the Secretary, for making such loans in lieu of interest and special allowance subsidies, and shall be required to assign such loans to the Secretary on demand. Upon such assignment, the portion of the advance represented by the loans assigned shall be considered repaid by such guaranty agency.''.

(2) CONFORMING AMENDMENT.—Section 422(c)(7) of the Act (20 U.S.C. 1072(c)(7)) is amended by striking all beginning with ''to a guar-

anty agency'' through the period and inserting ''to a guaranty agency—

''(A) in accordance with section 428(j), in order to ensure that the guaranty agency shall make loans as the lender-of-last-resort during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title; or

''(B) if the Secretary is seeking to terminate the guaranty agency's agreement, or assuming the guaranty agency's functions, in accordance with section 428(c)(10)(F)(v), in order to assist the agency in meeting its immediate cash needs, ensure the uninterrupted payment of claims, or ensure that the guaranty agency shall make loans as described in subparagraph (A);''.

(c) LENDER REFERRAL SERVICES.—Section 428(e) of the Act (20 U.S.C. 1078(e)) is amended—

(1) in paragraph (1)—

(A) by amending the paragraph heading to read as follows: ''IN GENERAL; AGREEMENTS WITH GUARANTY AGENCIES.—'';

(B) by inserting the subparagraph designation ''(A)'' immediately before ''The Secretary'';

(C) by striking ''in any State'' and inserting ''with which the Secretary has an agreement under subparagraph (B)''; and

(D) by adding at the end the following new subparagraph:

''(B)(i) The Secretary may enter into agreements with guaranty agencies that meet standards established by the Secretary to provide lender referral services in geographic areas specified by the Secretary. Such guaranty agencies shall be paid in accordance with paragraph (3) for such services.

''(ii) The Secretary shall publish in the Federal Register whatever standards, criteria, and procedures, consistent with the provisions of this part and part D of this title, the Secretary determines are reasonable and necessary to provide lender referral services under this subsection and ensure loan access to student and parent borrowers during the transition from the loan programs under this part to the direct student loan programs under part D of this title. Section 431 of the General Education Provisions Act shall not apply to the publication of such standards, criteria, and procedures.'';

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking ''in a State'' and inserting ''with which the Secretary has an agreement under paragraph (1)(B)'';

(B) by amending subparagraph (A) to read as follows:

''(A)(i) such student is either a resident of, or is accepted for enrollment in, or is attending, an eligible institution located in a geographic area for which the Secretary (I) determines that loans are not available to all eligible students, and (II) has entered into an agreement with a guaranty agency under paragraph (1)(B) to provide lender referral services; and'';

(3) in paragraph (3), by striking ''The'' and inserting ''From funds available for costs of transition under section 460 of the Act, the''; and

(4) by striking paragraph (5).

(d) STUDENT LOAN MARKETING ASSOCIATION.—Section 439(q) of the Act (20 U.S.C. 1087–2(q)) is amended—

(1) in paragraph (1)(A)—

(A) in the first sentence, by striking ''the Association or its designated agent may begin

making loans'' and inserting ''the Association or its designated agent shall, not later than July 1, 1994, begin making loans to such eligible borrowers''; and

(B) by striking the second sentence;

(2) in paragraph (2)(A), by striking ''the Association or its designated agent may'' and inserting ''the Association or its designated agent shall, not later than July 1, 1994,''; and

(3) in paragraph (3), by striking all beginning with ''that—'' through the period at the end of subparagraph (B) and inserting ''that the conditions that caused the implementation of this subsection have ceased to exist.''.

SEC. 12042. GUARANTY AGENCY RESERVES.

Section 422 of the Act (20 U.S.C. 1072) is amended by adding at the end the following new subsection:

''(g) PRESERVATION OF GUARANTY AGENCY RESERVES.—

''(1) AUTHORITY TO RECOVER FUNDS.—Notwithstanding any other provision of law, the reserve funds of the guaranty agencies, and any assets purchased with such reserve funds, regardless of who holds or controls the reserves or assets, shall be considered to be the property of the United States to

be used in the operation of the program authorized by this part or the program authorized by part D of this title. However, the Secretary may not require the return of all reserve funds of a guaranty agency to the Secretary unless the Secretary determines that such return is in the best interest of the operation of the program authorized by this part or the program authorized by part D of this title, or to ensure the proper maintenance of such agency's funds or assets or the orderly termination of the guaranty agency's operations and the liquidation of its assets. The reserves shall be maintained by each guaranty agency to pay program expenses and contingent liabilities, as authorized by the Secretary, except that the Secretary may—

''(A) direct a guaranty agency to return to the Secretary a portion of its reserve fund which the Secretary determines is unnecessary to pay the program expenses and contingent liabilities of the guaranty agency;

''(B) direct the guaranty agency to require the return, to the guaranty agency or to the Secretary, of any reserve funds or assets held by, or under the control of, any other entity, which the Secretary determines are necessary to

pay the program expenses and contingent liabilities of the guaranty agency, or which are required for the orderly termination of the guaranty agency's operations and the liquidation of its assets; and

''(C) direct a guaranty agency, or such agency's officers or directors, to cease any activities involving expenditure, use or transfer of the guaranty agency's reserve funds or assets which the Secretary determines is a misapplication, misuse, or improper expenditure of such funds or assets.

''(2) TERMINATION PROVISIONS IN CONTRACTS.—(A) To ensure that the funds and assets of the guaranty agency are preserved, any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the date of enactment of this subsection shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that

such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section.

''(B) The Secretary may direct a guaranty agency to suspend or cease activities under any contract entered into by or on behalf of such agency after January 1, 1993, if the Secretary determines that the misuse or improper expenditure of such guaranty agency's funds or assets or such contract provides unnecessary or improper benefits to such agency's officers or directors.

''(3) PENALTIES.—Violation of any direction issued by the Secretary under this subsection may be subject to the penalties described in section 490 of this Act.''.

SEC. 12043. TERMS OF LOANS.

(a) AMENDMENT.—Section 428 of the Act (20 U.S.C. 1078) is amended—

(1) in subsection (b)(1)(D), by striking ''be subject to'' through the semicolon and inserting ''be subject to income contingent repayment in accordance with subsection (m);''; and

(2) in subsection (m)—

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

"(1) AUTHORITY OF SECRETARY TO REQUIRE.—The Secretary may require any borrower who has defaulted on a loan made under this part that is assigned to the Secretary under subsection (c)(8) to repay that loan under an income contingent repayment plan, the terms and conditions of which shall be established by the Secretary and the same as, or similar to, an income contingent repayment plan established for purposes of part D of this title."; and

(B) by striking paragraphs (2), (3), and (4) and inserting the following new paragraph:

"(2) LOANS FOR WHICH INCOME CONTINGENT REPAYMENT MAY BE REQUIRED.—A loan made under this part may be required to be repaid under this subsection if the note or other evidence of the loan has been assigned to the Secretary pursuant to subsection (c)(8).".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for loans made in accordance with section 428 for periods of instruction beginning on or after July 1, 1993, or made on or after July 1, 1993, in the case of loans made in accordance with section 428B or 428C of the Act.

SEC. 12044. ASSIGNMENT OF LOANS.

Section 428(c)(8) of the Act (20 U.S.C. 1078(c)(8)) is amended—

(1) in the first sentence, by inserting the subparagraph designation ''(A)'' before ''If the'';

(2) by striking the second and third sentences; and

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

''(B) An orderly transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title shall be deemed to be in the Federal fiscal interest, and a guaranty agency shall promptly assign loans to the Secretary under this paragraph upon the Secretary's request.''.

SEC. 12045. TERMINATION OF GUARANTY AGENCY AGREEMENTS; ASSUMPTION OF GUARANTY AGENCY FUNCTIONS BY THE SECRETARY.

Section 428(c)(9) of the Act (as redesignated by section 12027(b)(2)) (20 U.S.C. 1078(c)(10)) is amended—

(1) in subparagraph (C), by inserting '', as appropriate,'' after ''the Secretary shall require'';

(2) in subparagraph (D)—

(A) by inserting the clause designation ''(i)'' before ''Each'';

(B) by striking ''Each'' and inserting ''If the Secretary is not seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a'';

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

''(ii) If the Secretary is seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the Secretary and the guaranty agency shall work together to ensure the orderly termination of the operations, and liquidation of the assets, of the guaranty agency.'';

(3) in subparagraph (E)—

(A) in clause (ii), by striking ''or'' after the semicolon;

(B) in clause (iii), by striking the period and inserting a semicolon; and

(C) by adding at the end the following new clauses:

''(iv) the Secretary determines that such action is necessary to protect the Federal fiscal interest;

''(v) the Secretary determines that such action is necessary to ensure the continued availability of loans to student or parent borrowers; or

''(vi) the Secretary determines that such action is necessary to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part D of this title.'';

(4) in subparagraph (F)—

(A) in the matter preceding clause (i), by striking ''Except as provided in subparagraph (G), if'' and inserting ''If'';

(B) by amending clause (v) to read as follows:

''(v) provide the guaranty agency with additional advance funds in accordance with section 422(c)(7), with such restrictions on the use of such funds as is deter-

mined appropriate by the Secretary, in order to—

''(I) meet the immediate cash needs of the guaranty agency;

''(II) ensure the uninterrupted payment of claims; or

''(III) ensure that the guaranty agency will make loans as the lender-of-last-resort, in accordance with subsection (j)(4);'';

(C) in clause (vi)—

(i) by striking ''and to avoid'' and inserting '', to avoid'';

(ii) by striking the period and inserting a comma and ''and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part D of this title.''; and

(iii) by redesignating such clause as clause (vii); and

(D) by inserting after clause (v) the following new clause:

''(vi) use all funds and assets of the guaranty agency to assist in the activities undertaken in accordance with this sub-

paragraph and take appropriate action to require the return, to the guaranty agency or the Secretary, of any funds or assets provided by the guaranty agency, under contract or otherwise, to any person or organization; or'';

(5) by striking subparagraph (G);

(6) by redesignating subparagraphs (H), (I), and (J) as subparagraphs (I), (J), and (K), respectively;

(7) by inserting after subparagraph (F) the following new subparagraphs:

''(G) Notwithstanding any other provision of law, if the Secretary has terminated or is seeking to terminate a guaranty agency's agreement under subparagraph (E), or has assumed a guaranty agency's functions under subparagraph (F)—

''(i) such guaranty agency may not file for bankruptcy;

''(ii) no State court may issue any order affecting the Secretary's actions with respect to such guaranty agency;

''(iii) any contract with respect to the administration of a guaranty agency's re-

serve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the date of enactment of this subparagraph shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section; and

''(iv) no provision of State law shall apply to the actions of the Secretary in terminating the operations of a guaranty agency;

''(H) Notwithstanding any other provision of law, the Secretary's liability for any outstanding liabilities of a guaranty agency (other than outstanding student loan guarantees under this part), the functions of which the Secretary has assumed, shall not exceed the fair market

value of the reserves of the guaranty agency, minus any necessary liquidation or other administrative costs.''; and

(8) in subparagraph (K) (as redesignated by paragraph (5)), by striking all beginning with ''system, together'' through the period and inserting ''system and the progress of the transition from the loan programs under this part to the direct student loan programs under part D of this title.''.

SEC. 12046. CONSOLIDATION LOANS.

(a) AMENDMENT.—Section 428C of the Act (20 U.S.C. 1078–3) is amended—

(1) in subsection (a)(3)(A), by striking all beginning with ''(A)'' through the period at the end of clause (ii) and inserting ''(A) For the purpose of this section, the term 'eligible borrower' means a borrower who, at the time of application for a consolidation loan is in repayment status, or in a grace period preceding repayment, or is a delinquent or defaulted borrower who will reenter repayment through loan consolidation.'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A)(ii), by inserting ''with income-sensitive repayment terms'' after ''obtain a consolidation loan'';

(ii) by redesignating subparagraph (E) as subparagraph (F); and

(iii) by inserting after subparagraph (D) the following new subparagraph:

''(E) that the lender shall offer an income-sensitive repayment schedule, established by the lender in accordance with the regulations promulgated by the Secretary, to the borrower of any consolidation loan made by the lender on or after July 1, 1994; and'';

(B) in paragraph (4), by amending subparagraph (C) to read as follows:

''(C)(i) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid in accordance with clause (ii), during any period for which the borrower would be eligible for a deferral under section 428(b)(1)(M), and that any such period shall not be included in determining the repayment schedule pursuant to subsection (c)(2) of this section; and

''(ii) provides that interest shall accrue and be paid—

''(I) by the Secretary, in the case of a consolidation loan that consolidated only Federal Stafford Loans for which the student borrower received an interest subsidy under section 428: or

''(II) by the borrower, or capitalized, in the case of a consolidation loan other than a loan described in subclause (I);''; and

(C) by adding at the end the following new paragraph:

''(5) DIRECT LOANS.—In the event that a borrower is unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1), the Secretary shall offer any such borrower who applies for it, a direct consolidation loan to be repaid pursuant to income contingent repayment under part D of this title or pursuant to any other repayment provision under this section, except that the Secretary shall not offer such loans if, in the Secretary's judgment, the Department of Education does not have the necessary origination and servicing arrangements in place for such loans.''; and

(3) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking ''income sensitive repayment schedules. Such repayment terms'' and inserting ''income sensitive repayment schedules, established by the lender in accordance with the regulations of the Secretary. Except as required by such income sensitive repayment schedules, or by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5), such repayment terms'';

(II) by redesignating clauses (i), (ii), (iii), (iv), and (v) as clauses (ii), (iii), (iv), (v), and (vi), respectively; and

(III) by inserting before clause (ii) (as redesignated by subclause (II)) the following new clause:

"(i) is less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;";

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraph (C) as subparagraph (B); and

(B) in paragraph (3)(A), by inserting "except as required by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5)," before "the lender".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for loans made on or after July 1, 1994.

SEC. 12047. AUTHORITY TO USE OPTICALLY IMAGED DOCUMENTS.

(a) GENERAL AUTHORITY.—Section 484A of the Act (20 U.S.C. 1091a) is amended—

(1) in the section heading, by inserting "**; OPTICALLY IMAGED DOCUMENTS**" after "**LIMITATIONS**"; and

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

"(c) OPTICALLY IMAGED DOCUMENTS.—

''(1) PURPOSE.—It is the purpose of this subsection to—

''(A) allow the Secretary to use optical imaging technology to store and retrieve documents and records, including promissory notes and repayment agreements, required for the administration of the programs authorized under part D of this title, or for the administration of loans made under part B of this title that have been assigned to the Secretary;

''(B) permit the Secretary to destroy originals of such documents and records, including promissory notes and repayment agreements, after such documents and records have been optically imaged, thereby achieving significant savings in storage and retrieval costs; and

''(C) ensure that the Secretary may introduce as evidence in any proceeding with respect to the programs or loans described in subparagraph (A) optically imaged documents and records, including promissory notes and repayment agreements.

''(2) EVIDENCE.—Notwithstanding any other provision of law, an optically imaged copy of any document or record, including a promissory note or

repayment agreement, may be introduced as evidence in any proceeding with respect to the programs or loans described in paragraph (1)(A) in any Federal or State court, or other tribunal, and such optically imaged copy shall be admissible in any court or tribunal of the United States or any State as if such copy were the original document or record and have the same force and effect as the original.

''(3) CONSTRUCTION.—(A) Nothing in this subsection shall be interpreted to preclude the admissibility of a duplicate of a document or record required for the administration of the programs or loans described in paragraph (1)(A) made by a technology other than optical imaging consistent with the Federal Rules of Evidence and section 1732 of title 28, United States Code, or applicable State law.

''(B) Nothing in this subsection shall be interpreted to preclude the admissibility of an optically imaged copy of any document or record in a proceeding outside the scope of this subsection consistent with the Federal Rules of Evidence and section 1732 of title 28 of the United States Code, or applicable State law.''.

(b) OPTICALLY IMAGED DOCUMENTS.—Section 432 of the Act (20 U.S.C. 1082) is amended by adding at the end the following new subsection:

''(q) OPTICALLY IMAGED DOCUMENTS.—Records maintained in accordance with section 484A(c) may be used in any proceeding, as permitted by section 484A(c), with respect to a loan that was made under this part and has been assigned to the Secretary.''.

(c) CONFORMING AMENDMENT.—Section 487 of the Act (20 U.S.C. 1094) is amended by adding at the end the following new subsection:

''(f) USE OF OPTICALLY IMAGED DOCUMENTS.—In any proceeding with respect to a program or activity under part D of this title, or with respect to a loan made under part B of this title that has been assigned to the Secretary, records maintained in accordance with section 484A may be used as provided in that section.''.

SEC. 12048. CONSOLIDATION OF PROGRAMS.

(a) IN GENERAL.—Section 428H of the Act (20 U.S.C. 1078–9) is amended—

(1) in the matter preceding paragraph (1) of subsection (b), by inserting ''(including graduate and professional students as defined in regulations promulgated by the Secretary)'' after ''484'';

(2) in subsection (d), by inserting ‘‘, except that—

‘‘(1) the maximum annual amount of loans under this section an independent student (or a student whose parents are unable to borrow under the Federal Direct PLUS Loan Program) may borrow in any academic year or its equivalent or in any period of 7 consecutive months, whichever is longer, shall be as follows:

‘‘(A) In the case of such a student attending an eligible institution who has not completed such student’s first 2 years of undergraduate study, the amount determined in accordance with section 428(b)(1), plus—

‘‘(i) $4,000, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

‘‘(ii) $2,500, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

‘‘(iii) $1,500, if such student is enrolled in a program whose length is less

than ⅔, but at least ⅓, of such an academic year.

''(B) In the case of such a student attending an eligible institution who has completed the first 2 years of undergraduate study but who has not completed the remainder of a program of undergraduate study, the amount determined in accordance with section 428(b)(1), plus—

''(i) $5,000, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

''(ii) $3,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(iii) $1,675, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year.

''(C) In the case of such a student who is a graduate or professional student attending an eligible institution, the amount determined in

accordance with section 428(b)(1), plus $10,000; and

''(2) the maximum aggregate amount of such loans such student may borrow shall be adjusted to reflect the increased annual limits described in paragraph (1)'' before the period;

(3) in subsection (e), by adding at the end the following new paragraphs:

''(5) AMORTIZATION.—The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

''(A) the amount of the periodic payment will be adjusted annually; or

''(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 427A(c)(4).

''(6) REPAYMENT PERIOD.—For purposes of calculating the 10-year repayment period under section 428(b)(1)(D), such period shall commence at

the time the first payment of principal is due from the borrower.''; and

(4) by adding at the end the following new subsection:

''(h) REFINANCING.—

''(1) REFINANCING TO SECURE COMBINED PAYMENT.—An eligible lender may at any time consolidate loans held by such lender which are made under this section to a borrower, including loans which were made under sections 428A and 428B as such sections were in effect prior to the date of enactment of the Higher Education Amendments of 1986, under a single repayment schedule which provides for a single principal payment and a single payment of interest, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan. Unless the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3), such consolidated loan shall bear interest at the weighted average of the rates of all included loans rounded to the nearest whole percent. The extension of any repayment period of an included loan pursuant to this paragraph shall be reported (if required by such

loan) to the Secretary or guaranty agency insuring the loan, as the case may be, but no additional insurance premiums shall be payable with respect to any such extension. The extension of the repayment period of any included loan shall not require the formal extension of the promissory note evidencing the included loan or the execution of a new promissory note, but shall be treated as an administrative forbearance of the repayment terms of the included loan.

''(2) REFINANCING TO SECURE VARIABLE INTEREST RATE.—An eligible lender may reissue a loan which was made under this section before July 1, 1987, or under sections 428A and 428B as such sections were in effect prior to the date of enactment of the Higher Education Amendments of 1986 in order to permit the borrower to obtain the interest rate provided under section 427A(c)(4). A lender offering to reissue a loan or loans for such purpose may charge a borrower an amount not to exceed $100 to cover the administrative costs of reissuing such loan or loans, not more than one-half of which shall be paid to the guarantor of the loan being reissued to recover costs of reissuance. Reissuance of a loan under this paragraph shall not affect any in-

surance applicable with respect to the loan, and no additional insurance fee may be charged to the borrower with respect to the loan.

''(3) REFINANCING BY DISCHARGE OF PREVIOUS LOAN.—A borrower who has applied to an original lender for reissuance of a loan under paragraph (2) and who is denied such reissuance may obtain a loan from another lender for the purpose of discharging the loan from such original lender. A loan made for such purpose—

''(A) shall bear interest at the applicable rate of interest provided under section 427A(c)(4);

''(B) shall not result in the extension of the duration of the note (other than as permitted under subsection (e)(5)(B));

''(C) may be subject to an additional insurance fee but shall not be subject to the administrative cost charge permitted by paragraph (2) of this subsection; and

''(D) shall be applied to discharge the borrower from any remaining obligation to the original lender with respect to the original loan.

''(4) CERTIFICATION IN LIEU OF PROMISSORY NOTE PRESENTATION.—Each new lender may accept

certification from the original lender of the borrower's original loan in lieu of presentation of the original promissory note.

''(5) NOTIFICATION TO BORROWERS OF AVAILABILITY OF REFINANCING OPTIONS.—Each holder of a loan made under this section or under section 428B as in effect prior to the date of enactment of this Act shall, not later than October 1, 1993, in the case of loans made before the date of enactment of this paragraph, notify the borrower of such loan—

''(A) of the refinancing options for which the borrower is eligible under this subsection;

''(B) of those options which will be made available by the holder and of the practical consequences of such options in terms of interest rates and monthly and total payments for a set of loan examples; and

''(C) that, with respect to any option that the holder will not make available, the holder will, to the extent practicable, refer the borrower to an eligible lender offering such option.''.

(b) REPEAL.—

(1) REPEALER.—Section 428A of the Act is repealed.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective on July 1, 1994.

(c) TERMS, CONDITIONS AND BENEFITS.—Notwithstanding the amendments made by this section, with respect to loans provided under sections 428A and 428H of the Higher Education Act of 1965 (as such sections existed on the date preceding the date of enactment of this Act) the terms, conditions and benefits applicable to such loans under such sections shall continue to apply to such loans after the date of enactment of this Act.

SEC. 12049. ORIGINATION FEE; INSURANCE PREMIUM.

Section 428H of the Act (20 U.S.C. 1078–8) is amended—

(1) in subsection (f)—

(A) in the subsection heading, by striking ''INSURANCE PREMIUM'' and inserting ''ORIGINATION FEE'';

(B) in the heading of paragraph (1), by striking ''/INSURANCE PREMIUM'';

(C) in paragraph (1)—

(i) by striking ''a combined origination fee and insurance premium in the amount of 6.5 percent'' and inserting ''an origination fee in the amount of 3.0 percent''; and

(ii) by striking the second sentence;

(D) in paragraph (2), by striking ''combined fee and premium'' and inserting ''origination fee'';

(E) in paragraph (3), by striking ''combined origination fee and insurance premium'' and inserting ''origination fee'';

(F) in paragraph (4)—

(i) in the heading, by striking ''INSURANCE PREMIUM'' and inserting ''ORIGINATION FEE'';

(ii) by striking ''combined origination fee and insurance premiums'' and inserting ''origination fees''; and

(iii) by striking ''and premiums to pay'' and inserting ''to pay''; and

(G) in paragraph (5)—

(i) in the heading, by inserting ''ORIGINATION FEE AND'' before ''INSURANCE''; and

(ii) in the second sentence—

(I) by striking ''6.5 percent insurance premium'' and inserting ''combined origination fee under this

subsection and the insurance premium under subsection (h)''; and

(II) by inserting ''origination fee and'' before ''insurance''; and

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

''(h) INSURANCE PREMIUM.—Each State or nonprofit private institution or organization having an agreement with the Secretary under section 428(b)(1) may charge a borrower under this section an insurance premium equal to not more than 1 percent of the principal amount of the loan, if such premium will not be used for incentive payments to lenders.''

SEC. 12050. DISBURSEMENTS FOR FIRST YEAR STUDENTS.

Section 428(G) of the Act (20 U.S.C. 1078–7) is amended—

(1) in the heading for subsection (b), by striking ''AND ENDORSEMENT''; and

(2) in subsection (b)—

(A) by striking paragraph (1);

(B) in paragraph (2)—

(i) by striking ''other than a student described in paragraph (1)''; and

(ii) by striking ''(2) OTHER STUDENTS.—''.

Subchapter B—Amendments to Other Laws

SEC. 12055. DISCLOSURE OF TAX RETURN INFORMATION.

(a) RETURNS AND RETURN INFORMATION.—Section 6103(a)(3) of the Internal Revenue Code of 1986 (hereafter referred to in this part as ''the Code'') is amended by striking ''(l)(12)'' and inserting ''(l)(10), (12), or (13)''.

(b) INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.—Section 6103(l) of the Code is amended—

(1) in paragraph (10)(B), by striking ''officers and employees of an agency receiving return information under subparagraph (A) shall use such information'' and inserting ''return information disclosed under subparagraph (A) may be used by officers and employees of an agency, and by officers, employees, and agents of the Department of Education,''; and

(2) at the end, by adding a new paragraph to read as follows:

''(13) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.—

''(A) IN GENERAL.—The Secretary may, upon written request from the Secretary of Education, disclose to officers and employees of the Department of Education return informa-

tion with respect to a taxpayer who has received a Federal loan under a student loan program and whose loan repayment amounts are based in whole or in part on the taxpayer's income. Such return information shall be limited to—

''(i) taxpayer identity information with respect to such taxpayer;

''(ii) the filing status of such taxpayer; and

''(iii) the adjusted gross income of such taxpayer (as defined in section 62).

''(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers, employees, and agents of the Department of Education only for the purposes of, and to the extent necessary in, establishing an appropriate income contingent repayment level under a student loan program.

''(C) DEFINITIONS.—For purposes of this paragraph, the term 'student loan program' means the program authorized under part D of title IV of the Higher Education Act of 1965 and includes loans under parts B and E of title IV the Higher Education Act of 1965 that are

in default and have been assigned to the Department of Education.''.

(c) DISCLOSURE OF TAXPAYER IDENTITY INFORMATION.—Section 6103(m)(4) of the Code is amended—

(1) in the heading, by inserting ''**OWE AN OVERPAYMENT ON FEDERAL PELL GRANTS OR**'' immediately after ''**INDIVIDUALS WHO**'';

(2) in subparagraph (A)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II); and

(B) by striking ''of any taxpayer who has defaulted on a loan—'' and inserting ''of any taxpayer—

''(i) who owes an overpayment of a grant awarded to that taxpayer under subpart 1 of part A of title IV of the Higher Education Act of 1965, or

''(ii) who has defaulted on a loan—'';

(3) in subparagraph (B)—

(A) in clause (i), by striking ''under part B'' and inserting ''under part B or D''; and

(B) in clause (ii), by striking ''under part E'' and inserting ''under subpart 1 of part A, part D, or part E'';

(d) PROCEDURE AND RECORDKEEPING.—Section 6103(p) of the Code is amended—

(1) in paragraph (3)(A), by striking ''(11), or (12), (m)'' and inserting ''(11), (12), or (13), (m)'';

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking ''(10), or (11),'' and inserting ''(10), (11), or (13),'';

(B) in subparagraph (F)(ii), by striking ''(11), or (12),'' and inserting ''(11), (12), or (13),''; and

(C) in the flush left material after subparagraph (F), by striking ''under subsection (l)(12)(B)'' and inserting ''under paragraph (10), (12)(B), or (13) of subsection (l)''.

(e) COLLECTION OF PAYMENTS.—(1) Subchapter A of chapter 64 of the Code is amended by adding at the end the following new section:

''SEC. 6306. COLLECTION OF PAYMENTS ON FEDERAL DIRECT STUDENT LOANS.

''Upon a determination by the President under section 457(b) of the Higher Education Act of 1965 concerning the implementation of a plan for the repayment of Federal Direct Stafford Loans through wage withholding or other means by the Internal Revenue Service, the Sec-

retary of the Treasury may enter into an agreement with the Secretary of Education to provide for the collection of payments on loans made pursuant to part D of title IV of such Act. The Secretary of the Treasury may assess and collect such payments as though they were additional income taxes due, and shall establish such procedures and conventions as are necessary under such agreement, including—

''(1) procedures for the resolution of disputes through the Secretary of Education;

''(2) an alternate system of fees and penalties, which system shall not include the seizure of real property by the Internal Revenue Service, for the nonpayment of amounts due; and

''(3) provisions related to withholding, payment of estimated tax and allocation of payments.''.

(2) The table of sections for subchapter A of chapter 64 of the Code is amended by adding at the end the following new item:

''Sec. 6306. Collection of payments on Federal direct Stafford loans.''.

(f) UNAUTHORIZED DISCLOSURE.—Section 7213(a)(2) of the Code is amended by striking ''(10) or (12)'' and inserting ''(10), (12), or (13),''.

(g) EFFECTIVE DATE.—The amendments made by this section shall be effective during the period beginning

on the date of enactment of this Act and ending on December 30, 1998.

CHAPTER 4—COST SHARING BY STATES

SEC. 12061. COST SHARING BY STATES.

(a) AMENDMENT.—Section 428 of the Higher Education Act of 1965 (20 U.S.C. 1078) is amended by adding at the end the following new subsection:

''(n) STATE SHARE OF DEFAULT COSTS.—

''(1) IN GENERAL.—In the case of any State in which there are located any institutions of higher education with cohort default rates that exceed 20 percent, such State shall pay to the Secretary an amount equal to—

''(A) the new loan volume attributable to all institutions in the State for the current fiscal year; multiplied by

''(B) the percentage specified in paragraph (2); multiplied by

''(C) the quotient of—

''(i) the sum of the amounts calculated under paragraph (3) for each such institution in the State; divided by

''(ii) the total amount of loan volume attributable to current and former students of institutions located in that State

entering repayment in the period used to calculate the cohort default rate.

''(2) PERCENTAGE.—For purposes of paragraph (1)(B), the percentage used shall be—

''(A) 12.5 percent for fiscal year 1995;

''(B) 20 percent for fiscal year 1996; and

''(C) 50 percent for fiscal year 1997 and succeeding fiscal years.

''(3) CALCULATION.—For purposes of paragraph (1)(C)(i), the amount shall be determined by calculating for each institution the amount by which—

''(A) the amount of the loans received for attendance by such institution's current and former students who (i) enter repayment during the fiscal year used for the calculation of the cohort default rate, and (ii) default before the end of the following fiscal year; exceeds

''(B) 20 percent of the loans received for attendance by all the current and former students who enter repayment during the fiscal year used for the calculation of the cohort default rate.

''(4) FEE.—A State may charge a fee to an institution of higher education that participates in the

program under this part and is located in that State according to a fee structure, approved by the Secretary, that is based on the institution's cohort default rate and the State's risk of loss under this subsection. Such fee structure shall include a process by which an institution with a high cohort default rate is exempt from any fees under this paragraph if such institution demonstrates to the satisfaction of the State that exceptional mitigating circumstances, as determined by the State and approved by the Secretary, contributed to its cohort default rate.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective on October 1, 1994.

CHAPTER 5—GENERAL EFFECTIVE DATE

SEC. 12071. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall be effective on October 1, 1993.

Subtitle B—Public Health Service Act Provisions

SEC. 12101. HEALTH COVERAGE CLEARINGHOUSE.

(a) IN GENERAL.—The Public Health Service Act is amended—

(1) by redesignating title XXVII (42 U.S.C. 300cc et seq.) as title XXVIII; and

(2) by inserting after title XXVI the following new title:

"TITLE XXVII—HEALTH COVERAGE CLEARINGHOUSE

"SEC. 2701. ESTABLISHMENT OF CLEARINGHOUSE.

''(a) IN GENERAL.—The Secretary shall establish and operate a Health Coverage Clearinghouse (in this title referred to as the 'Clearinghouse') for the purpose of identifying, for beneficiaries under a covered health program (as defined in subsection (c)), third parties (which may include a covered health program) which may be liable for payment for health care items and services furnished to such beneficiaries under such program.

''(b) DIRECTOR.—The Clearinghouse shall be headed by a Director (in this title referred to as the 'Director') appointed by the Secretary.

''(c) COVERED HEALTH PROGRAM DEFINED.—As used in this title, the term 'covered health program' means any of the following under which health care items or services are furnished to a beneficiary—

''(1) a migrant health center receiving assistance under section 329;

''(2) a community health center receiving assistance under section 330;

''(3) an entity receiving assistance under section 340;

''(4) an alcohol or drug treatment entity or mental health entity receiving assistance under title V or title XIX;

''(5) a family planning project described in section 1001;

''(6) an entity receiving assistance under title XXVI;

''(7) a black lung clinic authorized under this Act;

''(8) a clinic that treats sexually transmitted diseases and is authorized under section 318;

''(9) an entity receiving funds to provide primary health services to residents of public housing under section 340A;

''(10) a non-Federal entity authorized under the Indian Self-Determination Act;

''(11) a tuberculosis clinic receiving assistance under section 317(j)(2) or 317(k)(2); or

''(12) any other Federally funded program that provides payments for medical services provided to an individual which are or may be covered under a private health insurance policy.

''(d) OTHER DEFINITIONS.—As used in this title:

''(1) ADMINISTRATOR.—The term 'administrator' means, with respect to a covered health program described in paragraphs (1) through (12) of subsection (c), the individual responsible for the overall administration of the program under which an entity described in such paragraphs receives Federal funds.

''(2) GROUP HEALTH PLAN.—The term 'group health plan' has the same meaning given the term 'employee welfare benefit plan' in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

''(3) QUALIFIED EMPLOYER.—The term 'qualified employer' has the same meaning given the term 'employer' in section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

"SEC. 2702. PROVISION OF INFORMATION

''(a) REQUEST FOR INFORMATION.—An administrator of a covered health program may request from the Director information concerning the employment and group health coverage of a program beneficiary, the beneficiary's spouse, and (if the beneficiary is a dependent child) the beneficiary's parents. The Director shall provide such information if the request—

''(1) is in such form and manner and at such a time as the Director may require, and

''(2) specifies the name and tax identification number of the beneficiary.

''(b) DATA MATCHING PROGRAM.—

''(1) REQUEST BY DIRECTOR.—The Director shall, at such intervals as the Director finds appropriate, transmit to the Secretary of the Treasury the names and tax identification numbers of beneficiaries with respect to whom a request has been made pursuant to subsection (a), and request that such Secretary disclose to the Secretary of Health and Human Services the following information:

''(A) Whether the beneficiary is married and, if so, the name of the spouse and such spouse's tax identification number.

''(B) If the beneficiary is a dependent child, the name of and tax identification numbers of the beneficiary's parents.

''(2) INFORMATION FROM SECRETARY.—The Secretary shall, upon written request from the Director, disclose to the Director, the following information:

''(A) For each individual who is identified as having received wages (as defined in section

3401(a) of the Internal Revenue Code of 1986) from an employer in a previous year—

''(i) the name and taxpayer identification number of the individual; and

''(ii) the name, address, and taxpayer identification number of the employer, and whether such employer is a qualified employer.

''(B) For each individual who is identified as married and whose spouse is identified as having received wages (as defined in section 3401(a) of the Internal Revenue Code of 1986) from an employer in a previous year—

''(i) the name and taxpayer identification number of the individual and of the individual's spouse; and

''(ii) the name, address, and taxpayer identification number of the spouse's employer, and whether such employer is a qualified employer.

''(C) For each individual who is identified as a dependent child and whose parent is identified as having received wages (as defined in section 3401(a) of the Internal Revenue Code of 1986) from an employer in a previous year—

''(i) the name and taxpayer identification number of the individual and of the individual's parent; and

''(ii) the name, address, and taxpayer identification number of the parent's employer, and whether such employer is a qualified employer.

''(3) INFORMATION FROM EMPLOYERS.—The Director shall—

''(A) request, from the employer of each individual (including each spouse) with respect to whom information was received from the Secretary pursuant to paragraph (2), information concerning coverage of such individual (and of the individual's spouse and dependent children) under the employer's group health plan, specifically the period and nature of the coverage, and the name, address, and identifying number of the plan, and

''(B) furnish the information received in response to such request with respect to an individual (or such individual's spouse or dependent children) to the administrator requesting such information pursuant to subsection (a).

Under no circumstances shall the information requested pertain in any way to the health status of the individual, spouse or dependent children, to the cost of such coverage, or to the beneficiary-specific limitations on such coverage.

"SEC. 2703. REQUIREMENT THAT EMPLOYERS FURNISH INFORMATION.

''(a) IN GENERAL.—An employer shall furnish to the Director the information requested pursuant to section 2702(b)(3) within 90 days after receipt of such a request.

''(b) CIVIL MONEY PENALTY FOR FAILURE TO COOPERATE.—

''(1) IN GENERAL.—An employer (other than a Federal or other governmental entity) who willfully or repeatedly fails to provide timely and accurate response to a request for information pursuant to section 2702(b)(3) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not to exceed $500 for each individual with respect to whom such a request is made.

''(2) ENFORCEMENT AUTHORITY.—In cases of failure to respond to the Director in accordance with subsection (a) to inquiries relating to requests pursuant to section 2702, the provisions of section

353(h)(3), regarding procedures for the imposition of civil money penalties developed by the Secretary, shall apply in the same manner as such provisions apply to penalties or proceedings under section 353.

"SEC. 2704. DATA BANK.

''(a) MAINTENANCE OF INFORMATION.—The Clearinghouse shall maintain a data bank, containing information on individuals obtained pursuant to this title. Individual information in the data bank shall be retained for not less than one year after the date the information was obtained.

''(b) DISCLOSURE OF INFORMATION IN DATA BANK.—

''(1) IN GENERAL.—The Director is authorized (subject to paragraph (2)) to disclose any information in the data bank established pursuant to subsection (a) with respect to an individual (or an individual's spouse or parent)—

''(A) to the Secretary, administrators, employers, and insurers, to the extent necessary to assist such administrators;

''(B) to Federal and State law enforcement officials responsible for enforcement of civil or criminal laws, in connection with investigations or administrative or judicial law enforcement

proceedings relating to a covered health program; and

''(C) for research or statistical purposes.

''(2) RESTRICTIONS ON DISCLOSURE.—Information in the data bank may be disclosed under this subsection only for purposes of, and to the extent necessary in, determining the extent to which an individual is covered under any group health plan.

''(c) USE OF CONTRACTORS.—The responsibilities of the Clearinghouse under this section may be carried out by contract.

''(d) FEES.—The Clearinghouse shall—

''(1) establish fees for services under this section designed to cover the full costs to the Clearinghouse of providing such services, and

''(2) require the payment of such fees to provide such services.''.

(b) CONFORMING AMENDMENTS.—

(1) Sections 2701 through 2714 of the Public Health Service Act (42 U.S.C. 300cc through 300cc–15) are redesignated as sections 2801 through 2814, respectively.

(2) Sections 465(f) and 497 of such Act (42 U.S.C. 286(f) and 289(f)) are amended by striking

out ''2701'' each place that such appears and inserting in lieu thereof ''2801''.

(c) ERISA AMENDMENT.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended by adding at the end thereof the following new subsection:

''(g) COMPLIANCE WITH HEALTH COVERAGE CLEARINGHOUSE REQUIREMENTS.—In addition to providing the information required under this section, the administrator of each employee benefit plan shall comply with the requirements of section 2703(a) of the Public Health Service Act. The enforcement provisions of this Act shall apply to an administrator that fails to comply with this subsection in the same manner as such provisions otherwise apply to such administrators under this section.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall take effect on April 1, 1995.

SEC. 12102. PHYSICIAN OWNERSHIP STUDY.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study concerning—

(1) the desirability of establishing a Federal prohibition on the referral of a patient by a health care provider to an entity in which the provider has

a financial interest or from which the provider receives a financial benefit for such referral; and

(2) different options with respect to the scope of any prohibition recommended under paragraph (1), including options for the application of rules defining prohibited activities that are similar to those implemented under title XVIII of the Social Security Act, and for the methods of enforcing such a prohibition.

(b) LIMITATION.—The study conducted under subsection (a) shall be restricted to determining the desirability of establishing a prohibition of the type described in such subsection with respect to patients for whom the health care services involved are not provided or paid for under a Federal or State program.

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the President and the appropriate committees of Congress a report concerning the results of the study conducted under subsection (a).

SEC. 12103. DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS DURING FISCAL YEARS 1994, 1995, AND 1996.

(a) APPLICABILITY.—

(1) IN GENERAL.—This section shall apply with respect to any cost-of-living increase for any person described under paragraph (2) scheduled to take effect, during fiscal year 1994, 1995, or 1996, under section 8340(b) or 8462(b) of title 5, United States Code.

(2) ANNUITANTS.—The provisions of paragraph (1) shall apply to any annuitant who on the date preceding the date of retirement was a member of the National Health Service Corps.

(b) DELAY IN EFFECTIVE DATE OF ADJUSTMENTS.—A cost-of-living increase described in subsection (a) shall not take effect until the first day of the third calendar month after the date such increase would otherwise take effect.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to affect any determination relating to eligibility for an annuity increase or the amount of the first increase in an annuity under section 8340(b) or (c) or section 8462 (b) or (c) of title 5, United States Code, or comparable provisions of law.

SEC. 12104. PERMANENT ELIMINATION OF THE ALTERNATIVE-FORM-OF-ANNUITY OPTION EXCEPT FOR INDIVIDUALS WITH A CRITICAL MEDICAL CONDITION.

(a) CIVIL SERVICE RETIREMENT SYSTEM; FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—A member of the National Health Service Corps who is covered under chapter 83 or 84 of title 5, United States Code, and has a life-threatening affliction or other critical medical condition may elect annuity benefits under section 8343a or 8420a of title 5, United States Code, as the case may be.

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1995, and shall apply with respect to any annuity commencing on or after that date.

SEC. 12105. FEDERAL TORT CLAIMS AMENDMENTS.

(a) CLARIFICATION OF COVERAGE OF OFFICERS AND EMPLOYEES OF CLINICS.—The first sentence of section 224(g)(1) of the Public Health Service Act (42 U.S.C. 233(g)(1)) is amended by striking ''officer, employee, or contractor'' and inserting the following: ''officer or employee of such an entity, and any contractor''.

(b) COVERAGE FOR SERVICES FURNISHED TO INDIVIDUALS OTHER THAN PATIENTS OF CLINIC.—Section 224(g) of such Act (42 U.S.C. 233(g)(1)), as amended by paragraph (1), is further amended—

(1) in the first sentence of paragraph (1), by inserting after ''Service'' the following: ''with respect to services provided to patients of the entity and (subject to paragraph (7)) to certain other individuals''; and

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

''(7) For purposes of paragraph (1), an officer, employee, or contractor described in such paragraph may be deemed to be an employee of the Public Health Service with respect to services provided to individuals who are not patients of an entity described in paragraph (4) only if the Secretary determines—

''(A) that the provision of the services to such individuals benefits health center patients and general populations that could be served by the health center through community-wide intervention efforts within the communities served by such health center, and facilitates the provision of services to health center patients; or

''(B) that such services are otherwise required to be provided to such individuals under an employment contract (or other similar arrangement) between the individual and the entity.''.

(c) DETERMINING COMPLIANCE OF ENTITY WITH REQUIREMENTS FOR COVERAGE.—

(1) IN GENERAL.—Section 224(h) of such Act (42 U.S.C. 233(h)), as added by section 2(b) of the Federally Supported Health Centers Assistance Act of 1992, is amended by striking ''the entity—'' and inserting the following: ''the Secretary, after receiving such assurances and conducting such investigation as the Secretary considers necessary, finds that the entity—''.

(2) FINDING.—Section 224 of such Act (42 U.S.C. 233) is amended by adding at the end thereof the following new subsection:

''(i) With respect to subsection (h), the finding of the Secretary that an entity meets all of the requirements under such subsection shall apply for the period specified by the Secretary, and shall be binding for all parties unless the Secretary reverses such finding for good cause shown at a later date.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Federally Supported Health Centers Assistance Act of 1992.

Subtitle C—Improved Immunization Delivery and Monitoring

SEC. 12201. SHORT TITLE, REFERENCES AND PURPOSE.

(a) SHORT TITLE.—This subtitle may be cited as the ''Comprehensive Child Immunization Act of 1993''.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

(c) PURPOSE.—It is the purpose of this subtitle to ensure that children in the United States are appropriately immunized against vaccine preventable infectious diseases at the earliest appropriate age.

SEC. 12202. MONITORING OF CHILDHOOD IMMUNIZATIONS.

Title XXI of the Public Health Service Act (42 U.S.C. 300aa–1 et seq.) is amended by adding at the end thereof the following new subtitle:

"Subtitle 3—Improved Immunization Delivery and Monitoring Systems

"Part A—List of Vaccines and Administration

"SEC. 2141. LIST OF PEDIATRIC VACCINES; SCHEDULE FOR ADMINISTRATION.

''(a) RECOMMENDED PEDIATRIC VACCINES.—

''(1) IN GENERAL.—The Secretary shall establish a list of the vaccines that the Secretary recommends for administration to all children for the purpose of immunizing the children, subject to such contraindications for particular medical categories of children as the Secretary may establish under subsection (b)(1)(D). The Secretary shall periodically review the list, and shall revise the list as appropriate.

''(2) RULE OF CONSTRUCTION.—

''(A) The list of vaccines specified in subparagraph (B) is deemed to be the list of vaccines maintained under paragraph (1).

''(B) The list of vaccines specified in this subparagraph is the list of vaccines that, for purposes of paragraph (1), is established (and periodically reviewed and as appropriate revised) by the Advisory Committee on Immuni-

zation Practices, an advisory committee established by the Secretary, acting through the Director of the Centers for Disease Control and Prevention.

''(b) RECOMMENDED SCHEDULE FOR ADMINISTRATION.—

''(1) IN GENERAL.—Subject to paragraph (2), in the case of a pediatric vaccine, the Secretary shall establish (and periodically review and as appropriate revise) a schedule of nonbinding recommendations for the following:

''(A) The number of immunizations with the vaccine that children should receive.

''(B) The ages at which children should receive the immunizations.

''(C) The dose of vaccine that should be administered in the immunizations.

''(D) Any contraindications regarding administration of the vaccine.

''(E) Such other guidelines as the Secretary determines to be appropriate with respect to administering the vaccine to children.

''(2) VARIATIONS IN MEDICAL PRACTICE.—In establishing and revising a schedule under paragraph (1), the Secretary shall ensure that, in the

case of the pediatric vaccine involved, the schedule provides for the full range of variations in medical judgment regarding the administration of the vaccine, subject to remaining within medical norms.

''(3) RULE OF CONSTRUCTION.—

''(A) The schedule specified in subparagraph (B) is deemed to be the schedule maintained under paragraph (1).

''(B) The schedule specified in this subparagraph is the schedule that, for purposes of paragraph (1), is established (and periodically reviewed and as appropriate revised) by the advisory committee specified in subsection (a)(2)(B).

''(c) GENERALLY APPLICABLE RULES OF CONSTRUCTION.—This section does not supersede any State law or requirements with respect to receiving immunizations (including any such law relating to religious exemptions or other exemptions under such State laws).

''(d) ISSUANCE OF LIST AND SCHEDULES.—Not later than 180 days after the date of the enactment of this section, the Secretary shall establish the initial list required in subsection (a) and the schedule required in subsection (b).

"Part B—State Registry System for Immunization Information

"SEC. 2145. PURPOSE.

''It is the purpose of this part to authorize the Secretary, in consultation with State public health officials, to establish State registry systems to monitor the immunization status of all children.

"SEC. 2146. GRANTS FOR IMMUNIZATION REGISTRIES.

''(a) IN GENERAL.—For the purpose described in section 2145, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall make an allotment each fiscal year for each State in an amount determined in accordance with section 2151. The Secretary shall make a grant to the State of the allotment made for the State for the fiscal year if the State submits to the Secretary an application in accordance with section 2150 on behalf of the chief executive officer of such State.

''(b) DESIGN OF STATE REGISTRIES.—To carry out the purpose described in section 2145, a State registry established under this part shall be designed to—

''(1) provide accurate and up to date surveillance data regarding immunization rates at the State and local levels;

''(2) assist in identifying localities with inadequate immunization rates to target for necessary remedial assistance;

''(3) assist in the effective administration and management of immunization programs at State and local levels by providing data to guide immunization program efforts;

''(4) assist the State in providing and receiving information on the immunization status of children who move across geographic boundaries that are covered by different State or local registries; and

''(5) facilitate the linkage of vaccine dosage information to adverse events reported to the Centers for Disease Control and Prevention under section 2125(b) and disease outbreak patterns, for the purpose of monitoring vaccine safety and effectiveness.

''(c) ELIGIBLE USE OF FUNDS.—The Secretary may make a grant under subsection (a) only if the State agrees to expend the grant for the purpose of—

''(1) collecting the data described in section 2147;

''(2) operating registries to maintain the data (and establishing such registries, in the case of a State that is not operating such a registry);

''(3) utilizing the data to monitor the extent to which children have received immunizations in accordance with the schedule established under section 2141;

''(4) notifying parents, as appropriate, if children have not received immunizations in accordance with such schedule;

''(5) coordinating and exchanging information with other State registries to allow the monitoring of the immunization status of children changing State of residence; and

''(6) such other activities as the Secretary may authorize with respect to achieving the objectives established by the Secretary for the year 2000 for the immunization status of children in the United States.

''(d) REQUIREMENT REGARDING STATE LAW.—

''(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved—

''(A) provides assurances satisfactory to the Secretary that, not later than October 1, 1996, the State will be operating a registry in accordance with this part, including having in effect such laws and regulations as may be necessary to so operate such a registry; and

''(B) agrees that, prior to such date, the State will make such efforts to operate a reg-

istry in accordance with this part as may be authorized in the law and regulations of the State.

''(2) RULES OF CONSTRUCTION.—

''(A) With respect to the agreements made by a State under this part, other than paragraph (1)(B), the Secretary may require compliance with the agreements only to the extent consistent with such paragraph.

''(B) The provisions of this part do not authorize the Secretary, as a condition of the receipt of a grant under subsection (a) by a State, to prohibit the State from providing any parent, upon the request of the parent, with an exemption from the requirements established by the State pursuant to this part for the collection of data regarding any child of the parent.

''SEC. 2147. REGISTRY DATA.

''(a) IN GENERAL.—For purposes of section 2146(c)(1), the data described in this section are the data described in subsection (b) and the data described in subsection (c).

''(b) DATA REGARDING BIRTH OF CHILD.—With respect to the birth of a child, the data described in this subsection is as follows:

''(1) The name of each child born in the State involved after the date of the implementation of the registry (in no event shall such date be later than October 1, 1996).

''(2) Demographic data on the child.

''(3) The name of one or both of the parents of the child. If the child has been given up for adoption, any information regarding the identity of the birth parent or parents of the child may not be entered into the registry, or if entered, shall be deleted.

''(4) The address, as of the date of the birth of the child, of each parent whose name is received in the registry pursuant to paragraph (3).

''(c) DATA REGARDING INDIVIDUAL IMMUNIZATIONS.—With respect to a child to whom a pediatric vaccine is administered in the State involved, the data described in this subsection is as follows:

''(1) The name, age, and address of the child.

''(2) The date on which the vaccine was administered to the child.

''(3) The name and business address of the health care provider that administered the vaccine.

''(4) The address of the facility at which the vaccine was administered.

''(5) The name and address of one or both parents of the child as of the date on which the vaccine was administered, if such information is available to the health care provider.

''(6) The type of vaccine.

''(7) The lot number or other information identifying the particular manufacturing batch of the vaccine.

''(8) The dose of vaccine that was administered.

''(9) A notation of the presence of any adverse medical reactions that the child experienced in relation to the vaccine and of which the health care provider is aware, in accordance with section 2125.

''(10) The presence of contraindications noted by the health care provider with respect to administration of the vaccine to the child.

''(11) Such other data regarding immunizations for the child, including identifying data, as the Secretary, in consultation with State public health officials, may require consistent with applicable law (including social security account numbers furnished pursuant to section 205(c)(2)(E) of the Social Security Act).

''(d) LIMITATION.—The Secretary may not establish information reporting requirements in addition to those

described in subsection (c) if such requirements are unduly burdensome.

''(e) DATE CERTAIN FOR SUBMISSION TO REGISTRY.—The Secretary may make a grant under section 2146 only if the State involved agrees to ensure that, with respect to a child—

''(1) the data described in subsection (b) are submitted to the registry under such section as soon as possible but in no event later than 8 weeks after the date on which the child is born; and

''(2) the data described in subsection (c) with respect to a vaccine are submitted to such registry as soon as possible but in no event later than 4 weeks after the date on which the vaccine is administered to the child.

''(f) UNIFORMITY IN METHODOLOGIES.—The Secretary shall, in consultation with State public health officials, establish standards regarding the methodologies used in establishing and operating registries under section 2146, and may make a grant under such section only if the State agrees to comply with the standards. The Secretary shall provide maximum flexibility to the States while also retaining a reasonable degree of uniformity among the States in such methodologies for the purpose

of ensuring the utility, comparability, and exchange of the data maintained in such registries.

''(g) COORDINATION AMONG STATES.—The Secretary may make a grant under section 2146 to a State only if, with respect to the operation of the registry of the State under such section, the State agrees to transfer that information contained in the State registry pursuant to section 2146 to other States upon the request of such States for such information.

"SEC. 2148. FEDERAL STANDARDS ON CONFIDENTIALITY.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, in consultation with the States, shall by regulation establish standards providing for maintaining the confidentiality of the identity of individuals with respect to whom data are maintained in registries under section 2146. Such standards shall, with respect to a State, provide that the State is to have in effect laws or regulations regarding such confidentiality, including appropriate penalties for violation of the laws. The Secretary may make a grant under such section only if the State involved agrees to comply with the standards.

''(2) USE OF DISCLOSURE.—

''(A) No personally identifiable information relating to a child or to the parent or guardian of such child that is collected or maintained by the State registry may be used or disclosed by any holder of such information except as permitted for—

''(i) the monitoring of a child's immunization status;

''(ii) oversight, audit, and evaluation of the immunization delivery and registry systems;

''(iii) activities relating to establishing and maintaining a safe and effective supply of recommended childhood vaccine;

''(iv) processing of insurance claims for payment for vaccine administration (but only to the extent necessary for processing claims); and

''(v) administration of the National Vaccine Injury Compensation Program under subtitle 2.

''(B) Information regarding immunizations provided as described in subparagraph (A)(i) may be used or disclosed only with the written

authorization of the individual to whom it refers or to the parent with custody of such individual.

''(b) USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Any usage or disclosure of data in registries under section 2146 that consists of social security account numbers and related information which is otherwise permitted under this part may be exercised only to the extent permitted under section 205(c)(2)(E) of the Social Security Act. For purposes of the preceding sentence, the term 'related information' has the meaning given such term in clause (iv)(II) of such section.

"SEC. 2149. PROVIDER PARTICIPATION.

''(a) IN GENERAL.—The State shall monitor and enforce compliance by health care providers with the requirements of sections 2147 and 2148 and section 2155(b) for all doses of pediatric vaccine administered in the State. The State shall establish procedures satisfactory to the Secretary for discontinuing the distribution of federally purchased or State purchased vaccine for any health care provider who fails to comply with the requirements of section 2147 and for reinstating such vaccine supply to such provider upon receiving from such provider—

''(1) the reports necessary to make current and complete the information that would have been fur-

nished to the State registry between the dates of the provider's termination and reinstatement; and

''(2) satisfactory assurances regarding the provider's future compliance.

''(b) REPORTS TO SECRETARY.—The Secretary may make a grant under section 2146 only if the State involved agrees to submit to the Secretary such reports as the Secretary determines to be appropriate with respect to the activities of the State under this part.

''SEC. 2150. APPLICATION FOR GRANT.

''An application by a State for a grant under section 2146 is in accordance with this section if the application—

''(1) is submitted not later than the date specified by the Secretary;

''(2) contains each agreement required in this part;

''(3) contains any information required in this part to be submitted to the Secretary; and

''(4) is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

''SEC. 2151. DETERMINATION OF AMOUNT OF ALLOTMENT.

''The Secretary shall determine the amount of the allotments required in section 2146 for States for a fiscal

year in accordance with a formula established by the Secretary that allots the amounts appropriated under section 2152 for the fiscal year on the basis of the costs of the States in establishing and operating registries under section 2146.

"SEC. 2152. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this part, other than section 2153, there are authorized to be appropriated $152,000,000 for fiscal year 1994, $125,000,000 for fiscal year 1995, and $35,000,000 for each of the fiscal years 1996 through 1999.

"SEC. 2153. NATIONAL IMMUNIZATION SURVEILLANCE PROGRAM.

''(a) IN GENERAL.—The Secretary shall establish a national immunization surveillance program for the purpose of assessing the effects of the programs and activities provided for in this subtitle towards appropriately immunizing children and facilitating State immunization registries. The national immunization surveillance program shall—

''(1) provide technical assistance to States for the development of vaccination registries and monitoring systems; and

''(2) receive aggregate epidemiologic data (that is in a format that is not person specific) collected

by States as provided for in section 2147 at intervals determined appropriate by the Secretary for the purpose of—

''(A) compiling accurate and up-to-date surveillance data regarding immunization rates at the State level in order to assess the progress made towards achieving nationally established immunization goals;

''(B) assisting in the effective administration and management of immunization programs at the State level by providing technical assistance to guide immunization program efforts at the request of the State;

''(C) providing technical assistance to States and localities to facilitate monitoring the immunization status of children who move across geographic boundaries that are covered by different State or local registries at the request of such States or localities; and

''(D) monitoring the safety and effectiveness of vaccines by linking vaccine dosage information with adverse events reporting under section 2125(b) and disease outbreak patterns.

''(b) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to authorize the release of person

specific information to the Secretary for the purpose of immunization surveillance.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section in each of the fiscal years 1994 through 1999.

"SEC. 2154. REPORT.

''Not later than January 1, 1995, and biennially thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the planning, development, operation and effectiveness of the national immunization surveillance program and the State immunization registries.

"Part C—Distribution of Vaccines, Public Outreach and Education

"SEC. 2155. DISTRIBUTION OF VACCINES.

''(a) IN GENERAL.—

''(1) HEALTH CARE PROVIDERS.—The Secretary shall provide for the distribution, without charge, of recommended pediatric vaccines (in accordance with section 2141) purchased by the Secretary to health care providers who serve children and who—

''(A) are members of a uniformed service, or are officers or employees of the United States;

''(B) are health centers (as defined in section 2162(2)); or

''(C) provide services under section 503 of the Indian Health Care Improvement Act or pursuant to a contract under section 102 of the Indian Self Determination Act.

''(2) STATES.—The Secretary shall provide for the distribution, without charge, of those recommended pediatric vaccines that are purchased by the Secretary and provided to States for the purposes of immunizing medicaid-eligible children, and additional vaccines that may be purchased by the Secretary for children within those States.

''(b) DUTIES OF HEALTH CARE PROVIDERS.—

''(1) FREE PROVISION TO CHILDREN.—A health care provider or entity receiving vaccine under this section may use such vaccine only for administration to children and may not impose a charge for such vaccine. A provider or health care entity may impose a fee that reflects actual regional costs as determined by the Secretary for the administration of such vaccine, except that a provider may not deny

a child a vaccination due to the inability of the child's parent to pay an administration fee.

''(2) REPORTING REQUIREMENTS.—A health care provider receiving vaccine under this section shall report the information required under section 2147 to the applicable State registry operated pursuant to a grant under section 2146 if such State registry exists. The provider shall additionally report to such State registry any occurrence reported to the Secretary pursuant to section 2125(b). The provider shall also provide regular and periodic estimates to the State of the provider's future dosage needs for recommended childhood vaccines distributed under this section. All reports shall be made with such frequency and in such detail as the Secretary, in consultation with State public health officials, may prescribe.

"SEC. 2156. IMPROVED IMMUNIZATION DELIVERY, OUTREACH AND EDUCATION.

''(a) FEDERAL EFFORTS.—The Secretary, acting through the Centers for Disease Control and Prevention and in conjunction with State health officials and other appropriate public and private organizations, shall conduct the following activities to improve Federal, State and local

vaccine delivery systems and immunization outreach and education efforts:

"(1) NATIONAL PUBLIC AWARENESS CAMPAIGN.—

"(A) IN GENERAL.—The Secretary, in conjunction with State health officials and other appropriate public and private organizations, shall develop and implement a National Immunization Public Awareness Campaign to assist families (through bilingual means if necessary) of children under the age of 2 years, and expectant parents, in obtaining knowledge concerning the importance of having their children immunized and in identifying the vaccines, schedules for immunization, and vaccine provider locations, appropriate with respect to their children.

"(B) IMPLEMENTATION.—In implementing the Campaign under subparagraph (A), the Secretary shall ensure that—

"(i) new and innovative methods are developed and utilized to publicly advertise the need to have children immunized in a timely manner;

''(ii) print, radio and television media are utilized to convey immunization information to the public; and

''(iii) with respect to immunization information, efforts are made to target pregnant women and the parents of children under the age of 2.

''(2) INTERAGENCY COMMITTEE ON IMMUNIZATION.—The Secretary, in conjunction with the Secretary of Agriculture, the Secretary of Housing and Urban Development, and the Secretary of Education, shall carry out activities through the Interagency Committee on Immunization to incorporate immunization status assessments and referral services as an integral part of the process by which individuals apply for assistance under—

''(A) the food stamp program under the Food Stamp Act of 1977;

''(B) section 17 of the Child Nutrition Act of 1966;

''(C) the Head Start Act;

''(D) part A of title IV of the Social Security Act;

''(E) title XIX of the Social Security Act;

"(F) any of the housing assistance laws of the United States; and

"(G) other programs determined appropriate by any of the Secretaries described in this paragraph.

"(3) EXPANDED OPPORTUNITY FOR NATIONAL SERVICE.—The Secretary, in conjunction with the Commission on National and Community Service and other independent agencies, is encouraged to develop opportunities for participants in national and community service programs to contribute to local initiatives for the improvement of immunization services, including public outreach and education efforts.

"(b) GRANTS TO STATES.—

"(1) IN GENERAL.—

"(A) The Secretary may award grants to States to enable such State to develop, revise and implement immunization improvement plans as described in paragraph (2).

"(B) To be eligible to receive a grant under subparagraph (A), a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(2) DESIGN.—A State immunization improvement plan shall be designed to improve immunization delivery, outreach, education and coordination within the State. Such plan shall provide for the creation of—

''(A) a vaccine provider education campaign and the distribution of any other materials determined to be appropriate by State health officials—

''(i) to enable such providers to make the best use of vaccination opportunities; and

''(ii) to educate such providers concerning their obligation to report immunization information with respect to their patients to State registries;

''(B) expanded capacity for the delivery of immunizations through—

''(i) increasing the number or type of facilities through which vaccines may be made available and the capacity of such facilities to immunize more children;

''(ii) developing alternative methods of delivering vaccines, such as mobile health clinics;

''(iii) increasing the number of hours during which vaccines are made available by providers within the State; or

''(iv) coordinating with federally qualified health centers to reach and immunize underserved children through education, outreach, tracking, and the provision of services;

except that, the Secretary may waive any specific requirement of this subparagraph if the Secretary determines that State immunization delivery efforts are sufficient without the imposition of such requirement;

''(C) population-based assessment criteria through which the State is able to assess the effectiveness of immunization activities in the State, which may be fulfilled through the implementation of a State immunization registry under section 2146;

''(D) a public awareness campaign, in conjunction with the National Campaign established under subsection (a)(1), to provide parents with information about the importance of immunization, the types and schedules for the

administration of vaccines, and the locations of vaccines providers;

''(E) coordinated community outreach activities among public or private health programs, including local health departments and health centers, and other public or private entities, to encourage and facilitate the ability of parents to obtain immunization services for their children; and

''(F) other activities that are not inconsistent with the purposes of this subtitle, subject to the approval of the Secretary.

''(3) IMMUNIZATION IMPROVEMENT PLAN APPROVAL.—

''(A) GOALS.—As part of the immunization improvement plan of a State, the State shall establish immunization rate goals for children residing within the State.

''(B) APPROVAL.—The immunization improvement plan developed by a State under this subsection shall be submitted to the Secretary for approval prior to the distribution of grant funds to the States under this subsection. The Secretary shall periodically review the progress that the State has made under such plan in

achieving the goals established under subparagraph (A).

''(C) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Secretary shall ensure that grant awards will be equitably distributed between rural and urban areas. In determining such distribution, the Secretary shall take into account the added costs of supporting the health care delivery infrastructure in sparsely populated areas.

''(D) REPORTING.—A State shall annually prepare and submit to the Director of the Centers for Disease Control and Prevention a report concerning the implementation of the State immunization improvement plan. If the Director or the Secretary, in reviewing the reports submitted under this subparagraph determine that the State has exceeded the goals established under subparagraph (A), the Secretary may award a bonus to the State in an amount not to exceed 5 percent of the amount the State received under the grant for the purposes of the grant.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section,

$250,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1999.

"Part D—General Provisions

"SEC. 2161. REPORT.

''Not later than October 1, 1995, and biennially thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the costs, efficiency, and effectiveness of procedures established to deliver vaccine to health care providers.

"SEC. 2162. NATIONAL VACCINE PROGRAM.

''The Secretary shall authorize a report to be prepared by the National Academy of Sciences concerning the role of the National Vaccine Program established under this title in achieving progress towards the nationally established immunization goals for the year 2000, and recommendations with respect to the changes in such Program that would facilitate greater progress towards achieving such goals.

"SEC. 2163. DEFINITIONS.

''For purposes of this subtitle—

''(1) HEALTH CARE PROVIDER.—The term 'health care provider', with respect to the administration of vaccines to children, means an entity that is licensed or otherwise authorized for such adminis-

tration under the law of the State in which the entity administers the vaccine, subject to section 333(e).

''(2) HEALTH CENTER.—The term 'health center' means—

''(A) a federally-qualified health center, as defined in section 1905(l)(2) of the Social Security Act; or

''(B) a public or nonprofit private entity receiving Federal funds under—

''(i) section 329, 330 or 340;

''(ii) section 340A (relating to grants for health services for residents of public housing); or

''(iii) section 501(a)(2) of the Social Security Act (relating to special projects of regional and national significance).

''(3) IMMUNIZATION.—The term 'immunization' means an immunization against a vaccine-preventable disease.

''(4) PARENT.—The term 'parent', with respect to a child, means a legal guardian of the child.

''(5) PEDIATRIC VACCINE.—The term 'pediatric vaccine' means a vaccine included on the list established under section 2141.

''(6) STATE.—The term 'State' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, the Republic of the Marshall Islands, Micronesia, the Northern Mariana Islands, and Palau.''.

SEC. 12203. NATIONAL VACCINE INJURY COMPENSATION PROGRAM AMENDMENTS.

(a) AMENDMENT OF VACCINE INJURY TABLE.—

(1) ADDITION OF VACCINES.—Section 2114 (42 U.S.C. 300aa–14) is amended by adding at the end thereof the following new subsection:

''(f) ADDITION OF VACCINES TO TABLE.—

''(1) IN GENERAL.—The Vaccine Injury table contained in subsection (a) shall also include any recommended childhood vaccine included in the list promulgated by the Secretary under section 2141.

''(2) REVIEW OF INFORMATION AND REVISION.—Not later than 2 years after the addition of a new vaccine to the table contained in subsection (a), and on a regular basis thereafter, the Secretary shall review information obtained under sections 2125 and part B of subtitle 3, and based on such review (and other relevant information) shall, as ap-

propriate, develop with respect to such new vaccine—

''(A) revisions with respect to illnesses, disabilities, injuries or conditions covered by such table;

''(B) appropriate specifications of the time period for the first symptom or manifestation of onset or of significant aggravation of such illnesses, disabilities, injuries or condition after vaccine administration, for purposes of receiving compensation under the Program; and

''(C) recommendations as to the amount of tax that should be imposed under section 4131 of the Internal Revenue Code of 1986 for each dose of vaccine.

''(3) LIMITATION.—The Secretary may modify the table contained in subsection (a) pursuant to paragraphs (1) and (2) only in accordance with subsection (c).

''(4) REVISION.—For purposes of section 2116(b), the addition of vaccine to the table contained in subsection (a) by operation of this subsection shall constitute a revision of the table.''.

(2) ATTORNEYS FEES.—Section 2115(e) (42 U.S.C. 300aa–15(e)) is amended by adding at the end thereof the following new paragraph:

''(4) The special master may award reasonable attorneys fees whether or not an election has been made under section 2121(a) to file a civil action concerning such petition.''.

(3) CONSENT FOR ANNUITY.—Subparagraphs (A) and (B) of section 2115(f)(4) are amended by striking '', with the consent of the petitioner,'' each place that such appears.

(4) TIME PERIODS FOR FEES AND COSTS.—

(A) IN GENERAL.—Section 2115(e) (42 U.S.C. 300aa–15(e)) (as amended by paragraph (3)) is further amended by adding at the end thereof the following new paragraph:

''(5) With respect to a petitioners' application for attorneys' fees and costs—

''(A) if the respondent enters no objection to such application within 21 days of the date on which the application was filed (unless such time period is extended by the special master with the consent of the petitioner) the special master shall enter a decision on such application within 30 days of such filing;

''(B) if the respondent files an objection to such application and the special master does not enter a decision with respect to the application within 60 days after the date on which the objection is filed, the special master involved shall, upon the written request of the petitioner, enter a decision within 15 days after the filing of such request; and

''(C) if the respondent files an objection to such application and the petitioner moves to reduce costs and fees as provided for in the objection, the special master shall enter a decision within 5 days after the receipt of the petitioner's motion.

The chief special master, upon the request of a special master, may waive the time limitations applicable to the special master under this paragraph if the special master demonstrates that complicating factors exist with respect to the issues involved to which the time limitation applies.''.

(B) APPLICATION.—The amendment made by subparagraph (A) shall apply to all petitioners' applications for attorneys' fees and costs filed under section 2115(e) of the Public Health

Service Act which are pending on the date of enactment of this Act.

(5) AUTHORIZATION OF APPROPRIATIONS.—Section 2115(j) (42 U.S.C. 300aa–15(j)) is amended by striking ''$80,000,000 for each succeeding fiscal year'' and inserting in lieu thereof ''$110,000,000 for each succeeding fiscal year''.

(6) LIMITATION OF ACTIONS.—Section 2116(b) (42 U.S.C. 300aa–16(b)) is amended by striking ''such person may file'' and inserting ''or to significantly increase the likelihood of obtaining compensation, such person may, notwithstanding section 2111(b)(2), file''.

(b) EXTENSION OF TIME FOR DECISION.—

(1) JURISDICTION.—Section 2112(d)(3)(D) (42 U.S.C. 300aa–12(d)(3)(D)) is amended by striking ''540 days'' and inserting ''30 months (but for not more than 6 months at a time)''.

(2) REPORT ON COLLECTIONS.—Section 2117 (42 U.S.C. 300aa–17) is amended by adding at the end thereof the following new subsection:

''(c) REPORT.—The Attorney General shall, on January 1 of each year, prepare and submit to the appropriate committees of Congress a report concerning amounts collected under this section.''.

(3) INCREASED RESPONSIBILITIES OF COMMISSION.—Section 2119(f) (42 U.S.C. 300aa–19(f)) is amended—

(A) by striking ''and'' at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting '', and''; and

(C) by adding at the end thereof the following new paragraph:

''(6) monitor the balance of the Vaccine Injury Trust Fund established by section 9510 of the Internal Revenue Code and, as appropriate, recommend changes in the tax per dose of vaccine imposed under section 4131 of such Code.''.

(c) SIMPLIFICATION OF VACCINE INFORMATION MATERIALS.—

(1) INFORMATION.—Section 2126(b) (42 U.S.C. 300aa–26(b)) is amended—

(A) by striking ''by rule'' in the matter preceding paragraph (1);

(B) in paragraph (1), by striking ''90'' and inserting ''30''; and

(C) in paragraph (2), by striking '', appropriate health care providers and parent organizations''.

(2) REQUIREMENTS.—Section 2126(c) (42 U.S.C. 300aa–26(c)) is amended—

(A) in the matter preceding paragraph (1), by inserting ''shall be based on available data and information,'' after ''such materials''; and

(B) by striking out paragraphs (1) through (10) and inserting in lieu thereof the following new paragraphs:

''(1) a concise description of the benefits of the vaccine;

''(2) a concise description of the risks associated with the vaccine;

''(3) a statement of the availability of the National Vaccine Injury Compensation Program;

''(4) a statement of the availability from the Secretary of more detailed written information concerning the information required under paragraphs (1), (2), and (3), that shall be made available to the parent, legal guardian, or other responsible person upon request; and

''(5) such other relevant information as determined appropriate by the Secretary.''.

(3) OTHER INDIVIDUALS.—Subsections (a) and (d) of section 2126 (42 U.S.C. 300aa–26(a) and (d)) are amended by inserting ''or to any other indi-

vidual'' immediately after ''to the legal representative of any child'' each place that such occurs.

(4) PROVIDER DUTIES.—Subsection (d) of section 2126 (42 U.S.C. 300aa–26(d)) is amended—

(A) by striking all after ''subsection (a),'' the second place it appears in the first sentence and inserting ''supplemented with visual presentations or oral explanations, in appropriate cases.''; and

(B) by striking ''or other information'' in the last sentence.

(d) AUTHORIZATION OF APPROPRIATIONS.—Part A of subtitle 2 of title XXI (42 U.S.C. 300aa–10 et seq.) is amended by adding at the end thereof the following new section:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 2120. (a) SECRETARY.—For purposes of administering this part, there are authorized to be appropriated from the Vaccine Injury Compensation Trust Fund established under section 9510(c) of the Internal Revenue Code of 1986, to the Secretary, $3,000,000 for each of the fiscal years 1994, 1995 and 1996.

''(b) ATTORNEY GENERAL.—For purposes of administering this part, there are authorized to be appropriated from the Vaccine Injury Compensation Trust Fund described in subsection (a), to the Attorney General,

$3,000,000 for each of the fiscal years 1994, 1995 and 1996.

''(c) COURT OF FEDERAL CLAIMS.—For purposes of administering this part, there are authorized to be appropriated from the Vaccine Injury Compensation Trust Fund described in subsection (a), to the Court of Federal Claims, $3,000,000 for each of the fiscal years 1994, 1995 and 1996.''.

SEC. 12204. MISCELLANEOUS PROVISIONS.

Section 317(k) (42 U.S.C. 247b(k)) is amended—

(1) by striking out paragraph (1); and

(2) by redesignating paragraphs (2) through (5) as paragraphs (1) and (4), respectively.

Subtitle D—ERISA Amendments

CHAPTER 1—GROUP HEALTH AMENDMENTS

SEC. 12301. COORDINATION OF ERISA PREEMPTION RULES WITH SOCIAL SECURITY ACT PROVISIONS PROVIDING FOR LIABILITY OF THIRD PARTIES AND CHILD HEALTH INSURANCE SUPPORT ENFORCEMENT.

(a) IN GENERAL.—Paragraph (8) of section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(8)) is amended to read as follows:

''(8)(A) Subsection (a) of this section shall not apply to any State law to the extent necessary to permit the

State to comply with the following requirements for the receipt of Federal financial assistance under title XIX of the Social Security Act:

''(i) subparagraphs (A), (B), and (I) of section 1902(a)(25) of such Act (relating to third-party liability) and section 1903(o) of such Act (relating to medicaid as secondary payor), as in effect on October 1, 1993; and

''(ii) sections 1902(a)(60) and 1908 of such Act (relating to assignment of rights of payment and child health insurance support), as in effect on the date of the enactment of the Omnibus Budget Reconciliation Act of 1993.

''(B) Paragraph (2)(B) shall not apply to any State law to the extent necessary to permit the compliance of the State with any of the requirements described in subparagraph (A).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1993.

SEC. 12302. CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER GROUP HEALTH PLANS.

(a) IN GENERAL.—Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974

(29 U.S.C. 1161 et seq.) is amended by adding at the end the following new section:

"SEC. 609. CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER GROUP HEALTH PLANS.

''A group health plan may not reduce its coverage of the costs of pediatric vaccines (as defined under section 2162 of the Public Health Service Act) below the coverage it provided as of May 1, 1993.''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by adding after the item relating to section 608 the following new item:

''Sec. 609. Continued coverage of costs of a pediatric vaccine under group health plans.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after the date of the enactment of this Act.

CHAPTER 2—LIABILITIES AND PENALTIES

SEC. 12311. LIABILITY FOR KNOWING PARTICIPATION IN A BREACH OF FIDUCIARY DUTY.

Section 409 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1109) is amended by adding at the end the following new subsection:

''(c) If any person who is not a fiduciary of a plan knowingly participates in an act or omission of a fiduciary knowing that the act or omission was a breach of fiduciary

responsibility of the fiduciary, such person shall be jointly and severally liable—

''(1) to make good any losses (including lost profits) to the plan resulting from the breach,

''(2) to restore to the plan any profits of such person which have been made as a result of the breach, and

''(3) to provide other relief available under sections 502(a)(3) and (a)(5) by reason of the breach.''

SEC. 12312. CIVIL ENFORCEMENT OF ERISA.

(a) SUITS BY PARTICIPANTS, ETC.—Paragraph (3) of section 502(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)) is amended to read as follows:

''(3) by a participant, beneficiary, or fiduciary—

''(A) to enjoin any act or practice which violates any provision of this title or the terms of the plan,

''(B) to provide participants and beneficiaries the full economic value of any benefits they would have received absent such violations, or

''(C) to obtain any other appropriate equitable relief (including back pay)—

''(i) to redress such violations, or

''(ii) to enforce any provision of this title or the terms of the plan;

and any amounts recovered under this paragraph shall be subject to a civil penalty as provided under subsection (l);''.

(b) ACTIONS BY SECRETARY.—Paragraph (5) of section 502(a) of such Act (29 U.S.C. 1132(a)) is amended to read as follow:

''(5) except as otherwise provided in subsection (b), by the Secretary—

''(A) to enjoin any act or practice which violates any provision of this title,

''(B) to provide participants and beneficiaries the full economic value of any benefits they would have received absent such violations, or

''(C) to obtain any other appropriate equitable relief (including back pay)—

''(i) to redress such violations, or

''(ii) to enforce any provision of this title;

and any amounts recovered under this paragraph shall be subject to a civil penalty as provided under subsection (l); or''.

(c) LIMITATION ON JUDGMENTS.—Section 502(a) of such Act (29 U.S.C. 1132(a)) is amended by adding at the end the following new sentences:

''A court shall not award punitive damages, nor shall a court award monetary relief against a plan to the extent such monetary relief would exceed the sum of the benefit payments which would have been made but for the violations of this title or the terms of the plan plus reasonable prejudgment interest thereon. For purposes of this subsection, the terms 'participant' and 'beneficiary' shall include any individual who was a participant or beneficiary at the time of the alleged violation.''

SEC. 12313. CIVIL PENALTY.

(a) IN GENERAL.—Paragraph (1) of section 502(l) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(l)) is amended to read as follows:

''(1) In the case of—

''(A) any breach of fiduciary responsibility or other violation of title I by any person,

''(B) any participation by a party in interest in a transaction prohibited by section 406 or 407, or

''(C) any knowing participation in a fiduciary's breach or violation by any other person, including any person who is not a fiduciary,

the Secretary shall assess a civil penalty against such fiduciary, party in interest, or other person in an amount equal to the greater of 20 percent of the applicable recovery amount or $1,000.''

(b) PENALTIES RELATING TO MONETARY RELIEF.—

(1) IN GENERAL.—Section 502(l) of such Act (29 U.S.C. 1132(l)) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5) and by inserting after paragraph (2) the following new paragraph:

''(3)(A) In the case of a final judgment entered into by a court in an action brought by a participant, beneficiary, or fiduciary under subsection (a)(2) or in an action brought under subsection (a)(3) which requires a person to pay monetary relief (other than benefits payable to participants or beneficiaries under the plan or attorney's fees or costs under subsection (g))—

''(i) such persons shall, within 60 days after the judgment becomes final, provide the Secretary with a copy of the judgment, and

''(ii) the Secretary shall, upon receipt of the judgment, assess a civil penalty against such person in an amount equal to

the greater of 5 percent of such monetary relief or $1,000.

''(B) If a person fails to timely provide a copy of a judgment under subparagraph (A)(i), the Secretary may assess a civil penalty against the person of up to $1,000 for each day the failure continues after the 60th day after the judgment.''

(2) CONFORMING AMENDMENTS.—

(A) Section 502(l)(4) of such Act (29 U.S.C. 1132(l)(4)), as so redesignated by paragraph (1), is amended by striking ''paragraph (1)'' and inserting ''this subsection''.

(B) Section 502(l)(4)(B) of such Act (29 U.S.C. 1132(l)(4)(B)), as so redesignated, is amended by inserting '', participants, or beneficiaries'' after ''plan''.

(C) Section 502(l)(5) of such Act (29 U.S.C. 1132(l)(5), as so redesignated, is amended by striking ''section 4975'' and inserting ''section 4971 or 4975''.

SEC. 12314. EFFECTIVE DATE.

The amendments made by this part shall apply to any legal proceeding pending, or brought, on or after the date of the enactment of this Act.

CHAPTER 3—PUBLIC HEALTH SERVICE ACT

SEC. 12321. PROHIBITION ON REDUCTION IN COVERAGE OF PEDIATRIC VACCINE.

Part D of subtitle 2 of title XXI of the Public Health Service Act (42 U.S.C. 300aa–31 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 2135. PROHIBITION ON REDUCTION IN COVERAGE OF PEDIATRIC VACCINE.

''(a) IN GENERAL.—Notwithstanding any other provision of law, a health insurance policy in effect prior to May 1, 1993, may not reduce the level of coverage for the costs of pediatric vaccines below the level of coverage provided on the date of enactment of this section.

''(b) CIVIL MONEY PENALTY.—

''(1) IN GENERAL.—An entity that fails to comply with subsection (a) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not to exceed $1,000 for each individual with respect to whom such a failure occurs.

''(2) ENFORCEMENT.—With respect to an entity that offers a health insurance policy in violation of subsection (a), the provisions of section 353(h)(3), regarding procedures for the imposition of civil money penalties developed by the Secretary,

shall apply in the same manner as such provisions apply to penalties or proceedings under section 353.

''(c) DEFINITIONS.—As used in this section:

''(1) HEALTH INSURANCE POLICY.—The term 'health insurance policy' has the same meaning given the term 'employee welfare benefit plan' in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)) and includes any other policy or plan which provides coverage for the provision of health care services (including a health maintenance organization agreement).

''(2) PEDIATRIC VACCINES.—The term 'pediatric vaccines' has the same meaning given such term in section 2163.''.

TITLE XIII—VETERANS' PROGRAMS

SEC. 13001. PERMANENT EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f) of title 38, United States Code, is amended by striking out paragraph (7).

SEC. 13002. POLICY REGARDING COST-OF-LIVING ADJUSTMENT IN COMPENSATION RATES.

The fiscal year 1994 cost-of-living adjustments in the rates of and limitations for compensation payable under

chapter 11 of title 38, United States Code, and of dependency and indemnity compensation payable under chapter 13 of such title will be no more than a percentage equal to the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1993, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)), with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower dollar. The effective date of such adjustments shall not be earlier than December 4, 1993.

SEC. 13003. REDUCTION IN BASIC PAY AND INCENTIVES OF MONTGOMERY GI BILL PARTICIPANTS.

(a) ACTIVE DUTY.—Section 3011(b) of title 38, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)'';

(2) by designating the second sentence as paragraph (2); and

(3) in paragraph (1), as so designated, by striking out ''shall be reduced by'' and all that follows through the period and inserting in lieu thereof ''shall be reduced by—

''(A) in the case of an individual who first enters on active duty before October 1, 1993, $100 for

each of the first 12 months that such individual is entitled to such pay;

''(B) in the case of an individual who first enters on active duty during the fiscal year beginning on October 1, 1993, $137 for each of the first 12 months that such individual is entitled to such pay; and

''(C) in the case of an individual who first enters on active duty during any fiscal year beginning after September 30, 1994, an amount for each of the first 12 months that such individual is entitled to such pay that is equal to the amount of the monthly pay reduction of an individual under this paragraph during the previous fiscal year increased by the same percentage, if any, as the percentage by which monthly rates of educational assistance are increased for such fiscal year under section 3015(g)(3) of this title.''.

(b) SELECTED RESERVE.—Section 3012(c) of such title is amended—

(1) by inserting ''(1)'' after ''(c)'';

(2) by designating the second sentence as paragraph (2); and

(3) in paragraph (1), as so designated, by striking out ''shall be reduced by'' and all that follows

through the period and inserting in lieu thereof ''shall be reduced by—

''(A) in the case of an individual who first enters on active duty before October 1, 1993, $100 for each of the first 12 months that such individual is entitled to such pay;

''(B) in the case of an individual who first enters on active duty during the fiscal year beginning on October 1, 1993, $137 for each of the first 12 months that such individual is entitled to such pay; and

''(C) in the case of an individual who first enters on active duty during any fiscal year beginning after September 30, 1994, an amount for each of the first 12 months that such individual is entitled to such pay that is equal to the amount of the monthly pay reduction of an individual under this paragraph during the previous fiscal year increased by the same percentage, if any, as the percentage by which monthly rates of educational assistance are increased for such fiscal year under section 3015(g)(3) of this title.''.

(c) ENROLLMENT BEFORE INVOLUNTARY SEPARATION.—Section 3018A(b) of such title is amended by striking out ''$1,200'' and inserting in lieu thereof ''an

amount equal to 12 times the amount of the monthly pay reduction determined for the individual in accordance with section 3011(b)(1) or section 3012(c)(1) of this title. For the purposes of such determination, the date of the individual's election to receive assistance under subsection (a)(5) shall be considered the date that the individual first enters on active duty.''.

(d) ENROLLMENT BY VOLUNTARY SEPARATION INCENTIVE RECIPIENTS.—Section 3018B(b)(1) of such title is amended by striking out ''$1,200'' and inserting in lieu thereof ''an amount equal to 12 times the amount of the monthly pay reduction determined for the individual in accordance with section 3011(b)(1) or section 3012(c)(1) of this title. For the purposes of such determination, the date of the individual's election to receive assistance under subsection (a)(1)(E) shall be considered the date that the individual first enters on active duty.''.

SEC. 13004. PERMANENT EXTENSION OF PROCEDURES APPLICABLE TO LIQUIDATION SALES UPON DEFAULT OF HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) INCLUSION OF RESALE LOSSES IN NET-VALUE CALCULATION.—Paragraph (1)(C) of section 3732(c) of title 38, United States Code, is amended by inserting ''(in-

cluding losses sustained on the resale of the property)'' after ''resale''.

(b) PERMANENT EXTENSION OF AUTHORITY.—Paragraph (11) of such section is repealed.

SEC. 13005. INCREASE IN CERTAIN LOAN FEES.

(a) FEE INCREASE.—Paragraph (2) of section 3729(a) of title 38, United States Code, is amended—

(1) in the matter above subparagraph (A), by striking out ''1.25 percent'' and inserting in lieu thereof ''2 percent'';

(2) in subparagraph (A), by striking out ''one percent'' and inserting in lieu thereof ''1 percent'';

(3) in subparagraph (B), by striking out ''0.75 percent'' and inserting in lieu thereof ''1.50 percent'';

(4) in subparagraph (C), by striking out ''0.50 percent'' and inserting in lieu thereof ''1.25 percent''; and

(5) in subparagraph (D)—

(i) by striking out ''two percent'' in clause (i) and inserting in lieu thereof ''2.75 percent'';

(ii) by striking out ''one percent'' in clause (ii) and inserting in lieu thereof ''1 percent'';

(iii) by striking out ''1.50 percent'' in clause (iii)(I) and inserting in lieu thereof ''2.25 percent''; and

(iv) by striking out ''1.25 percent'' in clause (iii)(II) and inserting in lieu thereof ''2 percent''.

(b) FEE FOR MANUFACTURED HOMES.—Such paragraph is further amended—

(1) in subparagraph (A), by striking out ''or for any purpose specified in section 3712 of this title (other than section 3712(a)(1)(F))'';

(2) by striking out ''and'' at the end of subparagraph (D);

(3) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ''; and''; and

(4) by adding at the end the following:

''(F) in the case of a loan made for any purpose specified in section 3712 of this title (other than subsection (a)(1)(F) of such section), the amount of such fee shall be one percent of the total loan amount.''.

(c) REPEAL OF TEMPORARY INCREASE IN FEES.—Such section is further amended—

(1) in paragraph (2), by striking out ''Except as provided in paragraph (6) of this subsection, the'' in the matter above subparagraph (A) and inserting in lieu thereof ''The''; and

(2) by striking out paragraph (6).

SEC. 13006. PERMANENT EXTENSION OF MEDICAL CARE COST RECOVERY AUTHORITY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out ''before August 1, 1994,''.

SEC. 13007. PERMANENT EXTENSION OF REQUIREMENT THAT CERTAIN VETERANS MAKE COPAYMENTS FOR HEALTH-CARE SERVICES.

(a) MEDICATION COPAYMENT REQUIREMENT.—Section 1722A of title 38, United States Code, is amended by striking out subsection (c).

(b) HEALTH-CARE CATEGORIES AND COPAYMENTS.—Section 8013 of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is amended by striking out subsection (e).

SEC. 13008. PERMANENT AUTHORITY TO VERIFY INCOME ELIGIBILITY FOR NEED-BASED BENEFITS.

(a) AUTHORITY FOR SECRETARY OF VETERANS AFFAIRS TO OBTAIN INFORMATION.—Section 5317 of title

38, United States Code, is amended by striking out subsection (g).

(b) AUTHORITY FOR SECRETARY OF TREASURY TO PROVIDE INFORMATION.—Section 6103(*l*)(7)(D) of the Internal Revenue Code of 1986 is amended by striking out 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

S 1134 PCS——14

S 1134 PCS——15

S 1134 PCS——16

S 1134 PCS——17

S 1134 PCS——18

S 1134 PCS——19

S 1134 PCS——20

S 1134 PCS——21

S 1134 PCS——22

S 1134 PCS——23

S 1134 PCS——24

S 1134 PCS——25

S 1134 PCS——26

S 1134 PCS——27

S 1134 PCS——28

S 1134 PCS——29

S 1134 PCS——30

S 1134 PCS——31

S 1134 PCS——32

S 1134 PCS——33

S 1134 PCS——34

S 1134 PCS——35

S 1134 PCS——36

S 1134 PCS——37

S 1134 PCS——38

S 1134 PCS——39

S 1134 PCS——40

S 1134 PCS——41

S 1134 PCS——42

S 1134 PCS——43

S 1134 PCS——44

S 1134 PCS——45

S 1134 PCS——46

S 1134 PCS——47

S 1134 PCS——48

S 1134 PCS——49

S 1134 PCS——50

S 1134 PCS——51

S 1134 PCS——52

S 1134 PCS——53

S 1134 PCS——54

S 1134 PCS——55

S 1134 PCS——56

S 1134 PCS——57

S 1134 PCS——58

S 1134 PCS——59

S 1134 PCS——60