

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 19

To amend the Internal Revenue Code of 1986 to provide economic growth incentives in 1993, and for no other purpose.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. SPECTER (for himself, and Mr. DOMENICI) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide economic growth incentives in 1993, and for no other purpose.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMEND-**  
4 **MENT OF 1986 CODE.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “High Value Economic Growth Act of 1993”.

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

Sec. 1. Short title; table of contents; amendment of 1986 Code.

TITLE I—ECONOMIC GROWTH INCENTIVES

- Sec. 101. Credit for first-time homebuyers.
- Sec. 102. Special depreciation allowance for certain equipment acquired in 1992.
- Sec. 103. Penalty-free withdrawals from pension plans through 1992.
- Sec. 104. Passive loss equity for real estate professionals.
- Sec. 105. Real property acquired by a qualified organization.
- Sec. 106. Special rules for investments in partnerships.

## TITLE II—REVENUE OFFSETS

### Subtitle A—General Provisions

- Sec. 201. Elimination of the statute of limitations on collection of guaranteed student loans.
- Sec. 202. Increase tax on ozone depleting chemicals.
- Sec. 203. Mark to market inventory method for securities dealers.
- Sec. 204. Disallowance of interest on certain overpayments of tax.

### Subtitle B—Electromagnetic Spectrum Function

- Sec. 211. Short title.
- Sec. 212. Findings.
- Sec. 213. National spectrum planning.
- Sec. 214. Identification of reallocable frequencies.
- Sec. 215. Withdrawal of assignment to United States Government stations.
- Sec. 216. Distribution of frequencies by the Commission.
- Sec. 217. Authority to reclaim reassigned frequencies.
- Sec. 218. Competitive bidding.
- Sec. 219. Definitions.

### Subtitle C—Other Provisions

- Sec. 221. Extension of current law regarding lump-sum withdrawal of retirement.
- Sec. 222. Extension of the patent and trademark office user fee surcharge through 1996.
- Sec. 223. One-year extension of customs user fees.
- Sec. 224. Disclosures of information for veterans benefits.
- Sec. 225. Revision of procedure relating to certain loan defaults.
- Sec. 226. Application of medicare part B limits to FEHBP enrollee age 65 or older.

1           (c) AMENDMENT OF 1986 CODE.—Except as other-  
 2 wise expressly provided, whenever in this Act an amend-  
 3 ment or repeal is expressed in terms of an amendment  
 4 to, or repeal of, a section or other provision, the reference  
 5 shall be considered to be made to a section or other provi-  
 6 sion of the Internal Revenue Code of 1986.

1     **TITLE I—ECONOMIC GROWTH**  
2                     **INCENTIVES**

3     **SEC. 101. CREDIT FOR FIRST-TIME HOMEBUYERS.**

4             (a) IN GENERAL.—Subpart A of part IV of chapter  
5 1 is amended by inserting after section 22 the following  
6 new section:

7     **“SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-**  
8                     **TIME HOMEBUYER.**

9             “(a) ALLOWANCE OF CREDIT.—If an individual who  
10 is a first-time homebuyer purchases a principal residence  
11 (within the meaning of section 1034), there shall be al-  
12 lowed to such individual as a credit against the tax im-  
13 posed by this subtitle an amount equal to 10 percent of  
14 the purchase price of the principal residence.

15             “(b) LIMITATIONS.—

16                 “(1) MAXIMUM CREDIT.—The credit allowed  
17 under subsection (a) shall not exceed \$5,000.

18                 “(2) LIMITATION TO ONE RESIDENCE.—The  
19 credit under this section shall be allowed with re-  
20 spect to only one residence of the taxpayer.

21                 “(3) MARRIED INDIVIDUALS FILING JOINTLY.—  
22 In the case of a husband and wife who file a joint  
23 return under section 6013, the credit under this sec-  
24 tion is allowable only if both the husband and wife

1 are first-time homebuyers, and the amount specified  
2 under paragraph (1) shall apply to the joint return.

3 “(4) OTHER TAXPAYERS.—In the case of indi-  
4 viduals to whom paragraph (3) does not apply who  
5 together purchase the same new principal residence  
6 for use as their principal residence, the credit under  
7 this section is allowable only if each of the individ-  
8 uals is a first-time homebuyer, and the sum of the  
9 amount of credit allowed to such individuals shall  
10 not exceed the lesser of \$5,000 or 10 percent of the  
11 total purchase price of the residence. The amount of  
12 any credit allowable under this section shall be ap-  
13 portioned among such individuals under regulations  
14 to be prescribed by the Secretary.

15 “(5) APPLICATION WITH OTHER CREDITS.—  
16 The credit allowed by subsection (a) shall not exceed  
17 the amount of the tax imposed by this chapter for  
18 the taxable year, reduced by the sum of any other  
19 credits allowable under this chapter.

20 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-  
21 poses of this section—

22 “(1) PURCHASE PRICE.—The term ‘purchase  
23 price’ means the adjusted basis of the principal resi-  
24 dence on the date of the acquisition thereof.

25 “(2) FIRST-TIME HOMEBUYER.—

1           “(A) IN GENERAL.—The term ‘first-time  
2           homebuyer’ means any individual if such indi-  
3           vidual has not had a present ownership interest  
4           in any residence (including an interest in a  
5           housing cooperative) at any time within the 36-  
6           month period ending on the date of acquisition  
7           of the residence on which the credit allowed  
8           under subsection (a) is to be claimed. An inter-  
9           est in a partnership, S corporation, or trust  
10          that owns an interest in a residence is not con-  
11          sidered an interest in a residence for purposes  
12          of this paragraph except as may be provided in  
13          regulations.

14          “(B) CERTAIN INDIVIDUALS.—Notwith-  
15          standing subparagraph (A), an individual is not  
16          a first-time homebuyer on the date of purchase  
17          of a residence if on that date the running of  
18          any period of time specified in section 1034 is  
19          suspended under subsection (h) or (k) of sec-  
20          tion 1034 with respect to that individual.

21          “(3) SPECIAL RULES FOR CERTAIN ACQUISI-  
22          TIONS.—No credit is allowable under this section  
23          if—

24                  “(A) the residence is acquired from a per-  
25                  son whose relationship to the person acquiring

1           it would result in the disallowance of losses  
2           under section 267 or 707(b), or

3           “(B) the basis of the residence in the  
4           hands of the person acquiring it is deter-  
5           mined—

6           “(i) in whole or in part by reference  
7           to the adjusted basis of such residence in  
8           the hands of the person from whom it is  
9           acquired, or

10           “(ii) under section 1014(a) (relating  
11           to property acquired from a decedent).

12           “(d) RECAPTURE FOR CERTAIN DISPOSITIONS.—

13           “(1) IN GENERAL.—Except as provided in para-  
14           graphs (2) and (3), if the taxpayer disposes of prop-  
15           erty with respect to the purchase of which a credit  
16           was allowed under subsection (a) at any time within  
17           36 months after the date the taxpayer acquired the  
18           property as his principal residence, then the tax im-  
19           posed under this chapter for the taxable year in  
20           which the disposition occurs is increased by an  
21           amount equal to the amount allowed as a credit for  
22           the purchase of such property.

23           “(2) ACQUISITION OF NEW RESIDENCE.—If, in  
24           connection with a disposition described in paragraph  
25           (1) and within the applicable period prescribed in

1 section 1034, the taxpayer purchases a new principal  
2 residence, then the provisions of paragraph (1) shall  
3 not apply and the tax imposed by this chapter for  
4 the taxable year in which the new principal residence  
5 is purchased is increased to the extent the amount  
6 of the credit that could be claimed under this section  
7 on the purchase of the new residence (determined  
8 without regard to subsection (e)) is less than the  
9 amount of credit claimed by the taxpayer under this  
10 section.

11 “(3) DEATH OF OWNER; CASUALTY LOSS; IN-  
12 VOLUNTARY CONVERSION; ETC.—The provisions of  
13 paragraph (1) do not apply to—

14 “(A) a disposition of a residence made on  
15 account of the death of any individual having a  
16 legal or equitable interest therein occurring dur-  
17 ing the 36-month period to which reference is  
18 made under paragraph (1),

19 “(B) a disposition of the old residence if it  
20 is substantially or completely destroyed by a  
21 casualty described in section 165(c)(3) or  
22 compulsorily or involuntarily converted (within  
23 the meaning of section 1033(a)), or

24 “(C) a disposition pursuant to a settlement  
25 in a divorce or legal separation proceeding

1 where the residence is sold or the other spouse  
2 retains the residence as a principal residence.

3 “(e) PROPERTY TO WHICH SECTION APPLIES.—

4 “(1) IN GENERAL.—The provisions of this sec-  
5 tion apply to a principal residence if—

6 “(A) the taxpayer acquires the residence  
7 on or after February 1, 1993, and before Janu-  
8 ary 1, 1994, or

9 “(B) the taxpayer enters into, on or after  
10 February 1, 1993, and before January 1, 1994,  
11 a binding contract to acquire the residence, and  
12 acquires and occupies the residence before July  
13 1, 1994.”

14 (b) CLERICAL AMENDMENT.—The table of sections  
15 for subpart A of part IV of chapter 1 is amended by in-  
16 serting after section 22 the following new item:

“Sec. 23. Purchase of principal residence by first-time home-  
buyer.”

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section are effective on August 1, 1993.

19 **SEC. 102. SPECIAL DEPRECIATION ALLOWANCE FOR CER-**  
20 **TAIN EQUIPMENT ACQUIRED IN 1993.**

21 (a) IN GENERAL.—Section 168 (relating to acceler-  
22 ated cost recovery system) is amended by adding at the  
23 end the following new subsection:

1       “(j) SPECIAL ALLOWANCE FOR CERTAIN EQUIPMENT  
2 ACQUIRED IN 1993.—

3           “(1) ADDITIONAL ALLOWANCE.—Except as pro-  
4 vided in paragraph (2), in the case of any qualified  
5 equipment—

6           “(A) the depreciation deduction provided  
7 by section 167(a) for the taxable year in which  
8 such equipment is placed in service shall include  
9 an allowance equal to 15 percent of the ad-  
10 justed basis of the qualified equipment, and

11           “(B) the adjusted basis of the qualified  
12 equipment shall be reduced by the amount of  
13 such deduction (without regard to paragraph  
14 (2)) before computing the amount otherwise al-  
15 lowable as a depreciation deduction under this  
16 chapter for such taxable year and any subse-  
17 quent taxable year.

18           “(2) MAXIMUM FIRST-YEAR DEDUCTION.—Of  
19 the aggregate deduction allowable under paragraph  
20 (1)—

21           “(A) 0 percent shall be allowed for the tax-  
22 able year in which the property is placed in  
23 service, and

24           “(B) 100 percent shall be allowed for the  
25 succeeding taxable year.

1           “(3) QUALIFIED EQUIPMENT.—For purposes of  
2 this subsection—

3           “(A) IN GENERAL.—The term ‘qualified  
4 equipment’ means property to which this sec-  
5 tion applies—

6           “(i) which is section 1245 property  
7 (within the meaning of section  
8 1245(a)(3)),

9           “(ii) the original use of which com-  
10 mences with the taxpayer on or after Feb-  
11 ruary 1, 1993,

12           “(iii) which is—

13           “(I) acquired by the taxpayer on  
14 or after February 1, 1993, and before  
15 January 1, 1994, but only if no writ-  
16 ten binding contract for the acqui-  
17 sition was in effect before February 1,  
18 1993, or

19           “(II) acquired by the taxpayer  
20 pursuant to a written binding contract  
21 which was entered into on or after  
22 February 1, 1993, and before Janu-  
23 ary 1, 1994, and

24           “(iv) which is placed in service by the  
25 taxpayer before July 1, 1994.

1 “(B) EXCEPTIONS.—

2 “(i) ALTERNATIVE DEPRECIATION  
3 PROPERTY.—The term ‘qualified equip-  
4 ment’ shall not include any property to  
5 which the alternative depreciation system  
6 under subsection (g) applies, determined—

7 “(I) without regard to paragraph  
8 (7) of subsection (g) (relating to elec-  
9 tion to have system apply), and

10 “(II) after application of section  
11 280F(b) (relating to listed property  
12 with limited business use).

13 “(ii) ELECTION OUT.—If a taxpayer  
14 makes an election under this clause with  
15 respect to any class of property for any  
16 taxable year, this subsection shall not  
17 apply to all property in such class placed  
18 in service during such taxable year.

19 “(C) SPECIAL RULES RELATING TO ORIGI-  
20 NAL USE.—

21 “(i) SELF-CONSTRUCTED PROP-  
22 erty.—In the case of a taxpayer manufac-  
23 turing, constructing, or producing property  
24 for the taxpayer’s own use, the require-  
25 ments of clause (iii) of subparagraph (A)

1 shall be treated as met if the taxpayer be-  
2 gins manufacturing, constructing, or pro-  
3 ducing the property on and after February  
4 1, 1993, and before January 1, 1994.

5 “(ii) SALE-LEASEBACKS.—For pur-  
6 poses of subparagraph (A)(ii), if prop-  
7 erty—

8 “(I) is originally placed in service  
9 on or after February 1, 1993, by a  
10 person, and

11 “(II) is sold and leased back by  
12 such person within 3 months after the  
13 date such property was originally  
14 placed in service,

15 such property shall be treated as originally  
16 placed in service not earlier than the date  
17 on which such property is used under the  
18 leaseback referred to in subclause (II).

19 “(D) COORDINATION WITH SECTION  
20 280F.—For purposes of section 280F—

21 “(i) AUTOMOBILES.—In the case of a  
22 passenger automobile (as defined in section  
23 280F(d)(5)) which is qualified equipment,  
24 the Secretary shall increase the limitation  
25 under section 280F(a)(1)(A)(i), and de-

1           crease each other limitation under sub-  
2           paragraphs (A) and (B) of section  
3           280F(a)(1), to appropriately reflect the  
4           amount of the deduction allowable under  
5           paragraph (1).

6           “(ii) LISTED PROPERTY.—The deduc-  
7           tion allowable under paragraph (1) shall be  
8           taken into account in computing any re-  
9           capture amount under section  
10          280F(b)(2).”

11          (b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM  
12          TAX.—

13           (1) IN GENERAL.—Section 56(a)(1)(A) (relat-  
14           ing to depreciation adjustment for alternative mini-  
15           mum tax) is amended by adding at the end the fol-  
16           lowing new clause:

17           “(iii) ADDITIONAL ALLOWANCE FOR  
18           EQUIPMENT ACQUIRED IN 1993.—The de-  
19           duction under section 168(j) shall be al-  
20           lowed.”

21           (2) CONFORMING AMENDMENT.—Clause (i) of  
22           section 56(a)(1)(A) is amended by inserting “or  
23           (iii)” after “(ii)”.

24           (c) EFFECTIVE DATE.—The amendments made by  
25          this section shall apply to property placed in service on

1 or after February 1, 1993, in taxable years ending on or  
2 after such date.

3 **SEC. 103. PENALTY-FREE WITHDRAWALS FROM PENSION**  
4 **PLANS THROUGH 1993.**

5 (a) IN GENERAL.—In the case of any qualified with-  
6 drawal—

7 (1) no additional tax shall be imposed under  
8 section 72(t)(1) of the Internal Revenue Code of  
9 1986 with respect to such qualified withdrawal, and

10 (2) except as provided in subsection (b), any  
11 amount includible in gross income by reason of such  
12 qualified withdrawal (determined without regard to  
13 this section) shall be includible ratably over the 4-  
14 taxable year period beginning with the taxable year  
15 in which such qualified withdrawal occurs.

16 (b) ELECTION TO RECONTRIBUTE TO PLAN.—

17 (1) IN GENERAL.—The amount required to be  
18 included in gross income for any taxable year under  
19 subsection (a)(2) shall be reduced by any designated  
20 retribution.

21 (2) DESIGNATED RECONTRIBUTION.—For pur-  
22 poses of paragraph (1), a designated retribution  
23 is any contribution to any plan described in sub-  
24 section (c)(1)(B)—

1 (A) which the taxpayer designates (in such  
2 manner as the Secretary of the Treasury may  
3 prescribe) as in lieu of all (or any portion of)  
4 any amount required to be included in gross in-  
5 come under subsection (a)(2) for a taxable year,  
6 and

7 (B) which is made not later than the due  
8 date (without extensions) for such taxable year.

9 (3) NO DEDUCTION ALLOWED FOR  
10 RECONTRIBUTION, ETC.—For purposes of the Inter-  
11 nal Revenue Code of 1986, a designated  
12 retribution shall not be treated as a contribution  
13 for any taxable year.

14 (c) QUALIFIED WITHDRAWAL.—For purposes of this  
15 section—

16 (1) IN GENERAL.—The term “qualified with-  
17 drawal” means any payment or distribution—

18 (A) which is made to an individual during  
19 1992,

20 (B) which is made from—

21 (i) an individual retirement plan (as  
22 defined in section 7701(a)(37) of the In-  
23 ternal Revenue Code of 1986) established  
24 for the benefit of the individual, or

1 (ii) amounts attributable to employer  
2 contributions made on behalf of the indi-  
3 vidual pursuant to elective deferrals de-  
4 scribed in section 402(g)(3) (A) or (C) or  
5 501(c)(18)(D)(iii) of such Code, and

6 (C) which is used by the individual for a  
7 qualified acquisition not later than the earlier  
8 of—

9 (i) the date which is 6 months after  
10 the date of such payment or distribution,  
11 or

12 (ii) the date on which the individual  
13 files the individual's income tax return for  
14 the taxable year in which such payment or  
15 distribution occurs.

16 (2) QUALIFIED ACQUISITION.—The term  
17 “qualified acquisition” means—

18 (A) the payment of qualified acquisition  
19 costs with respect to a principal residence of a  
20 first-time homebuyer who is the taxpayer or the  
21 child or grandchild of the taxpayer, or

22 (B) the purchase of a new passenger auto-  
23 mobile.

24 (3) DOLLAR LIMITATION.—The aggregate  
25 amount which may be treated as qualified withdraw-

1 als under paragraph (1) with respect to all plans  
2 and amounts of an individual described in paragraph  
3 (1)(B) shall not exceed \$10,000.

4 (4) DEFINITIONS AND SPECIAL RULES.—For  
5 purposes of this subsection—

6 (A) QUALIFIED ACQUISITION COSTS.—The  
7 term “qualified acquisition costs” means the  
8 costs of acquiring, constructing, or reconstruct-  
9 ing a residence. Such term includes any usual  
10 or reasonable settlement, financing, or other  
11 closing costs associated with such qualified ac-  
12 quisition costs.

13 (B) FIRST-TIME HOMEBUYER; OTHER  
14 DEFINITIONS.—

15 (i) FIRST-TIME HOMEBUYER.—The  
16 term “first-time homebuyer” means any  
17 individual if such individual (and if mar-  
18 ried, such individual’s spouse) had no  
19 present ownership interest in a principal  
20 residence during the 2-year period ending  
21 on the date of acquisition of the principal  
22 residence to which this paragraph applies.

23 (ii) PRINCIPAL RESIDENCE.—The  
24 term “principal residence” has the same  
25 meaning as when used in section 1034.

1 (iii) DATE OF ACQUISITION.—The  
2 term “date of acquisition” means the  
3 date—

4 (I) on which a binding contract  
5 to acquire the principal residence to  
6 which this subsection applies is en-  
7 tered into, or

8 (II) on which construction or re-  
9 construction of such a principal resi-  
10 dence is commenced.

11 (C) SPECIAL RULE WHERE DELAY IN AC-  
12 QUISSION.—If—

13 (i) any amount is paid or distributed  
14 from an individual retirement plan to an  
15 individual for purposes of being used as  
16 provided in paragraph (1), and

17 (ii) by reason of a delay in the acqui-  
18 sition of the residence, the requirements of  
19 paragraph (1) cannot be met,

20 the amount so paid or distributed may be paid  
21 into an individual retirement plan as provided  
22 in section 408(d)(3)(A)(i) of the Internal Reve-  
23 nue Code of 1986 without regard to section  
24 408(d)(3)(B) of such Code, and, if so paid into  
25 such other plan, such amount shall not be taken

1 into account in determining whether section  
2 408(d)(3)(A)(i) of such Code applies to any  
3 other amount.

4 (D) DISTRIBUTION RULES.—Any qualified  
5 withdrawal shall not be treated as failing to  
6 meet the requirements of sections  
7 401(k)(2)(B)(i) or 403(b)(11) of such Code.

8 (d) ORDERING RULES FOR INCOME TAX PUR-  
9 POSES.—For purposes of the Internal Revenue Code of  
10 1986—

11 (1) all plans and amounts described in sub-  
12 section (c)(1)(B) with respect to an individual shall  
13 be treated as one plan, and

14 (2) qualified withdrawals from such plan shall  
15 be treated as made—

16 (A) first from amounts which are includ-  
17 ible in gross income of the individual when dis-  
18 tributed to such individual, and

19 (B) then from amounts not so includible.

20 **SEC. 104. PASSIVE LOSS EQUITY FOR REAL ESTATE PRO-**  
21 **FSSIONALS.**

22 (a) RENTAL REAL ESTATE ACTIVITIES OF PERSONS  
23 IN REAL PROPERTY BUSINESS NOT AUTOMATICALLY  
24 TREATED AS PASSIVE ACTIVITIES.—Section 469(c) (de-

1 fining passive activity) is amended by adding at the end  
2 thereof the following new paragraph:

3 “(7) RULES FOR TAXPAYERS IN REAL PROP-  
4 ERTY BUSINESS TO END DISCRIMINATION.—

5 “(A) IN GENERAL.—If this paragraph ap-  
6 plies to any taxpayer for a taxable year—

7 “(i) paragraph (2) shall not apply to  
8 any rental real estate activity of such tax-  
9 payer for such taxable year, and

10 “(ii) this section shall be applied as if  
11 each interest of the taxpayer in rental real  
12 estate were a separate activity.

13 Notwithstanding clause (ii), a taxpayer may  
14 elect to treat all interests in rental real estate  
15 as one activity.

16 “(B) TAXPAYERS TO WHOM PARAGRAPH  
17 APPLIES.—This paragraph shall apply to a tax-  
18 payer for a taxable year if more than one-half  
19 of the personal services performed in trades or  
20 businesses by the taxpayer during such taxable  
21 year are performed in real property trades or  
22 businesses in which the taxpayer materially par-  
23 ticipates.

24 “(C) SPECIAL RULES FOR SUBPARAGRAPH  
25 (B).—

1           “(i) CLOSELY HELD C CORPORA-  
2           TIONS.—In the case of a closely held C  
3           corporation, the requirements of subpara-  
4           graph (B) shall be treated as met for any  
5           taxable year if more than 50 percent of the  
6           gross receipts of such corporation for such  
7           taxable year are derived from real property  
8           trades or businesses in which the corpora-  
9           tion materially participates.

10           “(ii) PERSONAL SERVICES AS AN EM-  
11           PLOYEE.—For purposes of subparagraph  
12           (B), personal services performed as an em-  
13           ployee (other than as an owner-employee)  
14           shall not be treated as performed in real  
15           property trades or businesses.”

16           (b) CONFORMING AMENDMENT.—Section 469(c)(2)  
17           is amended by striking “The” and inserting “Except as  
18           provided in paragraph (7), the”.

19           (c) EFFECTIVE DATE.—The amendments made by  
20           this section shall apply to taxable years beginning after  
21           February 1, 1993.

22           **SEC. 105. REAL PROPERTY ACQUIRED BY A QUALIFIED OR-**  
23           **GANIZATION.**

24           (a) INTERESTS IN MORTGAGES.—The last sentence  
25           of subparagraph (B) of section 514(c)(9) is hereby trans-

1 ferred to subparagraph (A) of section 514(c)(9) and added  
2 at the end thereof.

3 (b) MODIFICATIONS OF EXCEPTIONS.—Paragraph  
4 (9) of section 514(c) is amended by adding at the end  
5 thereof the following new subparagraph:

6 “(G) SPECIAL RULES FOR PURPOSES OF  
7 THE EXCEPTIONS.—For purposes of subpara-  
8 graph (B), except as otherwise provided by reg-  
9 ulations, the following additional rules apply—

10 “(i) IN GENERAL.—

11 “(I) For purposes of clauses (iii)  
12 and (iv) of subparagraph (B), a lease  
13 to a person described in clause (iii) or  
14 (iv) shall be disregarded if no more  
15 than 10 percent of the leasable floor  
16 space in a building is covered by the  
17 lease and if the lease is on commer-  
18 cially reasonable terms.

19 “(II) Clause (v) of subparagraph  
20 (B) shall not apply to the extent the  
21 financing is commercially reasonable  
22 and is on substantially the same  
23 terms as loans involving unrelated  
24 persons; for this purpose, standards  
25 for determining a commercially rea-

1                   sonable interest rate shall be provided  
2                   by the Secretary.

3                   “(ii) QUALIFYING SALES OUT OF  
4 FORECLOSURE BY FINANCIAL INSTITU-  
5 TIONS.—In the case of a qualifying sale  
6 out of foreclosure by a financial institution,  
7 clauses (i) and (ii) of subparagraph (B)  
8 shall not apply. For this purpose, a ‘quali-  
9 fying sale out of foreclosure by a financial  
10 institution’ exists where—

11                   “(I) a qualified organization ac-  
12 quires real property from a person (a  
13 ‘financial institution’) described in  
14 section 581 or 591(a) (including a  
15 person in receivership) and the finan-  
16 cial institution acquired the property  
17 pursuant to a bid at foreclosure or by  
18 operation of an agreement or of proc-  
19 ess of law after a default on indebted-  
20 ness which the property secured  
21 (‘foreclosure’), and the financial insti-  
22 tution treats any income realized from  
23 the sale or exchange of the property  
24 as ordinary income,

1           “(II) the amount of the financing  
2           provided by the financial institution  
3           does not exceed the amount of the fi-  
4           nancial institution’s outstanding in-  
5           debtedness (determined without re-  
6           gard to accrued but unpaid interest)  
7           with respect to the property at the  
8           time of foreclosure,

9           “(III) the financing provided by  
10          the financial institution is commer-  
11          cially reasonable and is on substan-  
12          tially the same terms as loans between  
13          unrelated persons for sales of fore-  
14          closed property (for this purpose,  
15          standards for determining a commer-  
16          cially reasonable interest rate shall be  
17          provided by the Secretary), and

18          “(IV) the amount payable pursu-  
19          ant to the financing that is deter-  
20          mined by reference to the revenue, in-  
21          come, or profits derived from the  
22          property (‘participation feature’) does  
23          not exceed 25 percent of the principal  
24          amount of the financing provided by  
25          the financial institution, and the par-

1                   ticipation feature is payable no later  
2                   than the earlier of satisfaction of the  
3                   financing or disposition of the prop-  
4                   erty.”

5           (c) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to debt-financed acquisitions of  
7 real estate made on or after February 1, 1993.

8 **SEC. 106. SPECIAL RULES FOR INVESTMENTS IN PARTNER-**  
9 **SHIPS.**

10           (a) MODIFICATION TO ANTI-ABUSE RULES.—Para-  
11 graph (9) of section 514(c) (as amended by section 131  
12 of this Act) is amended by adding at the end thereof the  
13 following new subparagraph:

14                   “(H) PARTNERSHIPS NOT INVOLVING TAX  
15                   AVOIDANCE.—

16                           “(i) DE MINIMIS RULE FOR CERTAIN  
17                           LARGE PARTNERSHIPS.—The provisions of  
18                           subparagraph (B) shall not apply to an in-  
19                           vestment in a partnership having at least  
20                           250 partners if—

21                                   “(I) investments in the partner-  
22                                   ship are organized into units that are  
23                                   marketed primarily to individuals ex-  
24                                   pected to be taxed at the maximum

1 rate prescribed for individuals under  
2 section 1,

3 “(II) at least 50 percent of each  
4 class of interests is owned by such in-  
5 dividuals,

6 “(III) the partners that are  
7 qualified organizations owning inter-  
8 ests in a class participate on substan-  
9 tially the same terms as other part-  
10 ners owning interests in that class,  
11 and

12 “(IV) the principal purpose of  
13 partnership allocations is not tax  
14 avoidance.

15 “(ii) EXCEPTION WHERE TAXABLE  
16 PERSONS OWN A SIGNIFICANT PERCENT-  
17 AGE.—In the case of any partnership,  
18 other than a partnership to which clause  
19 (i) applies, in which persons who are ex-  
20 pected (under the regulations to be pre-  
21 scribed by the Secretary), at the time the  
22 partnership is formed, to pay tax at the  
23 maximum rate prescribed in section 1 or  
24 11 (whichever is applicable) throughout the  
25 term of the partnership own at least a 25-

1           percent interest, the provisions of subpara-  
2           graph (B) shall not apply if the partner-  
3           ship satisfies the requirements of subpara-  
4           graph (E).”

5           (b) PUBLICLY TRADED PARTNERSHIPS; UNRELATED  
6 BUSINESS INCOME FROM PARTNERSHIPS.—Subsection  
7 (c) of section 512 is amended by striking paragraph (2)  
8 (relating to publicly traded partnerships), by redesignating  
9 paragraph (3) as paragraph (2), and by striking “para-  
10 graph (1) or (2)” in paragraph (2) (as so redesignated)  
11 and inserting “paragraph (1)”.

12           (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to partnership interests acquired  
14 on or after February 1, 1992.

## 15           **TITLE II—REVENUE OFFSETS**

### 16                   **Subtitle A—General Provisions**

#### 17           **SEC. 201. ELIMINATION OF THE STATUTE OF LIMITATIONS** 18                   **ON COLLECTION OF GUARANTEED STUDENT** 19                   **LOANS.**

20           Section 3(c) of the Higher Education Technical  
21 Amendments of 1991 (Public Law 102–26) is amended  
22 by striking out “that are brought before November 15,  
23 1992”.

1 **SEC. 202. INCREASED BASE TAX RATE ON OZONE-DEPLET-**  
 2 **ING CHEMICALS AND EXPANSION OF LIST OF**  
 3 **TAXED CHEMICALS.**

4 (a) IN GENERAL.—Paragraph (1) of section 4681(b)  
 5 (relating to amount of tax) is amended to read as follows:

6 “(B) BASE TAX AMOUNT.—The base tax  
 7 amount for purposes of subparagraph (A) with  
 8 respect to any sale or use during a calendar  
 9 year before 1997 with respect to any ozone-de-  
 10pleting chemical is the amount determined  
 11 under the following table for such calendar  
 12 year:

| <b>Calendar year:</b> | <b>Base tax amount:</b> |
|-----------------------|-------------------------|
| 1993 .....            | \$1.85                  |
| 1994 .....            | \$2.75                  |
| 1995 .....            | \$3.65                  |
| 1996 .....            | \$4.55.”                |

13 (b) CONFORMING AMENDMENTS.—

14 (1) Rates retained for chemical used in rigid  
 15 foam insulation.—The table in subparagraph (B) of  
 16 section 4682(g)(2) (relating to chemicals used in  
 17 rigid foam insulation) is amended—

18 (A) by striking “15” and inserting “13.5”,  
 19 and

20 (B) by striking “10” and inserting “9.6”.

21 (2) FLOOR STOCK TAXES.—



1           “(1) Any security which is inventory in the  
2 hands of the dealer shall be included in inventory at  
3 fair market value.

4           “(2) In the case of any security which is not in-  
5 ventory in the hands of the dealer and which is held  
6 at the close of any taxable year—

7                   “(A) the dealer shall recognize gain or loss  
8 as if such security were sold for its fair market  
9 value on the last business day of such taxable  
10 year, and

11                   “(B) any gain or loss shall be taken into  
12 account for such taxable year.

13 Proper adjustment shall be made in the amount of  
14 any gain or loss subsequently realized for gain or  
15 loss taken into account under the preceding sen-  
16 tence. The Secretary may provide by regulations for  
17 the application of this paragraph at times other than  
18 the times provided in this paragraph.

19           “(b) EXCEPTIONS.—

20                   “(1) IN GENERAL.—Subsection (a) shall not  
21 apply to—

22                           “(A) any security held for investment,

23                           “(B) any security described in subsection  
24 (c)(2)(C) which is originated or acquired by the  
25 taxpayer in the ordinary course of a trade or

1 business of the taxpayer and which is not held  
2 for sale, and

3 “(C) any hedge with respect to—

4 “(i) a security to which subsection (a)  
5 does not apply, or

6 “(ii) a position or a liability which is  
7 not a security in the hands of the tax-  
8 payer.

9 Subparagraph (C) shall not apply to any security  
10 held by a person in its capacity as a dealer in securi-  
11 ties.

12 “(2) IDENTIFICATION REQUIRED.—Any security  
13 shall not be treated as described in subparagraph  
14 (A), (B), or (C) of paragraph (1), as the case may  
15 be, unless such security is clearly identified in the  
16 dealer’s records as being described in such subpara-  
17 graph before the close of the day on which it was ac-  
18 quired, originated, or entered into (or such other  
19 time as the Secretary may by regulations prescribe).

20 “(3) SECURITIES SUBSEQUENTLY NOT EX-  
21 EMPT.—If a security ceases to be described in para-  
22 graph (1) at any time after it was identified as such  
23 under paragraph (2), this section shall apply to such  
24 security as of the time such cessation occurs.

1           “(4) SPECIAL RULE FOR PROPERTY HELD FOR  
2 INVESTMENT.—To the extent provided in regula-  
3 tions, subparagraph (A) of paragraph (1) shall not  
4 apply to any security described in subparagraph (D)  
5 or (E) of subsection (c)(2) which is held by a dealer  
6 in such securities.

7           “(c) DEFINITIONS.—For purposes of this section—

8           “(1) DEALER IN SECURITIES DEFINED.—The  
9 term ‘dealer in securities’ means a taxpayer who—

10           “(A) regularly purchases securities from or  
11 sells securities to customers in the ordinary  
12 course of a trade or business; or

13           “(B) regularly offers to enter into, assume,  
14 offset, assign or otherwise terminate positions  
15 in securities with customers in the ordinary  
16 course of a trade or business.

17           “(2) SECURITY DEFINED.—The term ‘security’  
18 means any—

19           “(A) share of stock in a corporation;

20           “(B) partnership or beneficial ownership  
21 interest in a widely held or publicly traded part-  
22 nership or trust;

23           “(C) note, bond, debenture, or other evi-  
24 dence of indebtedness;

1           “(D) any interest rate, currency, or equity  
2 notional principal contract;

3           “(E) evidence of an interest in, or a deriv-  
4 ative financial instrument in, any security de-  
5 scribed in subparagraph (A), (B), (C), or (D),  
6 or any currency, including any option, forward  
7 contract, short position, and any similar finan-  
8 cial instrument in such a security (but not in-  
9 cluding any contract to which section 1256(a)  
10 applies); and

11           “(F) position which—

12               “(i) is not a security described in sub-  
13 paragraph (A), (B), (C), (D), or (E),

14               “(ii) is a hedge with respect to such  
15 a security, and

16               “(iii) is clearly identified in the deal-  
17 er’s records as being described in this sub-  
18 paragraph before the close of the day on  
19 which it was acquired or entered into (or  
20 such other time as the Secretary may by  
21 regulations prescribe).

22           “(3) HEDGE.—The term ‘hedge’ includes any  
23 position which reduces the dealer’s risk of interest  
24 rate or price changes or currency fluctuations.

1       “(d) SPECIAL RULES.—For purposes of this sec-  
2 tion—

3               “(1) CERTAIN RULES NOT TO APPLY.—The  
4 rules of sections 263(g) and 263A shall not apply to  
5 securities to which subsection (a) applies.

6               “(2) IMPROPER IDENTIFICATION.—If a tax-  
7 payer—

8                       “(A) identifies any security or position  
9 under subsection (b)(2) as being described in  
10 such subsection and such security or position is  
11 not so described, or

12                      “(B) fails under subsection (c)(2)(F)(iii) to  
13 identify a security or position which is described  
14 in such subsection at the time such identifica-  
15 tion is required,

16 the provisions of subsection (a) shall apply to such  
17 security or position, except that any loss under this  
18 section prior to the disposition of the security shall  
19 be recognized only to the extent of gain previously  
20 recognized under this section with respect to such  
21 security.

22               “(e) REGULATORY AUTHORITY.—The Secretary shall  
23 prescribe such regulations as may be necessary or appro-  
24 priate to carry out the purposes of this section, including  
25 rules—

1           “(1) to prevent the use of year-end transfers,  
2 related parties, or other arrangements to avoid the  
3 provisions of this section, and

4           “(2) to provide for the application of this sec-  
5 tion to hedges which do not hedge a specific secu-  
6 rity, position, or liability.”

7 (b) CONFORMING AMENDMENTS.—

8           (1) Paragraph (1) of section 988(d) is amend-  
9 ed—

10                   (A) by striking “section 1256” and insert-  
11 ing “section 475 or 1256”, and

12                   (B) by striking “1092 and 1256” and in-  
13 serting “475, 1092, and 1256”.

14           (2) The table of sections for subpart D of part  
15 II of subchapter E of chapter 1 is amended by add-  
16 ing at the end thereof the following new item:

                  “Sec. 475. Mark to market inventory method for dealers in securi-  
                  ties.”

17 (c) EFFECTIVE DATE.—

18           (1) IN GENERAL.—The amendments made by  
19 this section shall apply to all taxable years ending on  
20 or after December 31, 1994.

21           (2) CHANGE IN METHOD OF ACCOUNTING.—In  
22 the case of any taxpayer required by this section to  
23 change its method of accounting for any taxable  
24 year—

1 (A) such change shall be treated as initi-  
2 ated by the taxpayer,

3 (B) such change shall be treated as made  
4 with the consent of the Secretary, and

5 (C) the net amount of the adjustments re-  
6 quired to be taken into account by the taxpayer  
7 under section 481 of the Internal Revenue Code  
8 of 1986 shall be taken into account ratably over  
9 the 10-taxable year period beginning with the  
10 first taxable year ending on or after December  
11 31, 1993.

12 **SEC. 204. DISALLOWANCE OF INTEREST ON CERTAIN OVER-**  
13 **PAYMENTS OF TAX.**

14 (a) GENERAL RULE.—Subsection (e) of section 6611  
15 is amended to read as follows:

16 “(e) DISALLOWANCE OF INTEREST ON CERTAIN  
17 OVERPAYMENTS.—

18 “(1) REFUNDS WITHIN 45 DAYS AFTER RETURN  
19 IS FILED.—If any payment of tax imposed by this  
20 title is refunded within 45 days after the last day  
21 prescribed for filing the return of such tax (deter-  
22 mined without regard to any extension of time for  
23 filing the return) or, in the case of a return filed  
24 after such last date, is refunded within 45 days after

1 the date the return is filed, no interest shall be al-  
2 lowed under subsection (a) on such overpayment.

3 “(2) REFUNDS AFTER CLAIM FOR CREDIT OR  
4 REFUND.—If—

5 “(A) the taxpayer files a claim for a credit  
6 or refund for any overpayment of tax imposed  
7 by this title, and

8 “(B) such overpayment is refunded within  
9 45 days after such claim is filed,

10 no interest shall be allowed on such overpayment from the  
11 date the claim is filed until the day the refund is made.

12 “(3) IRS INITIATED ADJUSTMENTS.—Notwith-  
13 standing any other provision, if an adjustment, initi-  
14 ated by or on behalf of the Secretary, results in a  
15 refund or credit of an overpayment, interest on such  
16 overpayment shall be computed by subtracting 45  
17 days from the number of days interest would other-  
18 wise be allowed with respect to such overpayment.”

19 (b) EFFECTIVE DATES.—

20 (1) Paragraph (1) of section 6611(e) of the In-  
21 ternal Revenue Code of 1986 (as amended by sub-  
22 section (a)) shall apply in the case of returns the  
23 due date for which (determined without regard to  
24 extensions) is on or after July 1, 1993.

1           (2) Paragraph (2) of section 6611(e) of such  
2 Code (as so amended) shall apply in the case of  
3 claims for credit or refund of any overpayment filed  
4 on or after July 1, 1993 regardless of the taxable  
5 period to which such refund relates.

6           (3) Paragraph (3) of section 6611(e) of such  
7 Code (as so amended) shall apply in the case of any  
8 refund paid on or after July 1, 1993 regardless of  
9 the taxable period to which such refund relates.

## 10           **Subtitle B—Electromagnetic** 11           **Spectrum Function**

### 12   **SEC 211. SHORT TITLE.**

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

### 15   **SEC. 212. FINDINGS.**

16           The Congress finds that—

17           (1) spectrum is a valuable natural resource;

18           (2) it is in the national interest that this re-  
19 source be used more efficiently;

20           (3) the spectrum below 6 gigahertz (GHz) is  
21 becoming increasingly congested, and, as a result en-  
22 tities that develop innovative new spectrum-based  
23 services are finding it difficult to bring these services  
24 to the marketplace;

1           (4) scarcity of assignable frequencies can and  
2 will—

3           (A) impede the development and commer-  
4 cialization of new spectrum-based products and  
5 services;

6           (B) reduce the capacity and efficiency of  
7 the United States telecommunications system;  
8 and

9           (C) adversely affect the productive capacity  
10 and international competitiveness of the United  
11 States economy;

12          (5) the United States Government presently  
13 lacks explicit authority to use excess  
14 radiocommunications capacity to satisfy non-United  
15 States Government requirements;

16          (6) more efficient use of the spectrum can pro-  
17 vide the resources for increased economic returns;

18          (7) many commercial users derive significant  
19 economic benefits from their spectrum licenses, both  
20 through the income they earn from their use of the  
21 spectrum and the returns they realize upon transfer  
22 of their licenses to third parties; but under current  
23 procedures, the United States public does not suffi-  
24 ciently share in their benefits;

1           (8) many United States Government functions  
2           and responsibilities depend heavily on the use of the  
3           radio spectrum, involve unique applications, and are  
4           performed in the broad national and public interest;

5           (9) competitive bidding for spectrum can yield  
6           significant benefits for the United States economy  
7           by increasing the efficiency of spectrum allocations,  
8           assignment, and use; and for United States tax-  
9           payers by producing substantial revenues for the  
10          United States Treasury; and

11          (10) the Secretary, the President, and the Com-  
12          mission should be directed to take appropriate steps  
13          to foster the more efficient use of this valuable na-  
14          tional resource, including the reallocation of a target  
15          amount of 200 megahertz (MHz) of spectrum from  
16          United States Government use under section 305 of  
17          the Communications Act to non-United States Gov-  
18          ernment use pursuant to other provisions of the  
19          Communications Act and the implementation of  
20          competitive bidding procedures by the Commission  
21          for some new assignments of the spectrum.

22 **SEC. 213. NATIONAL SPECTRUM PLANNING.**

23          (a) **PLANNING ACTIVITIES.**—The Secretary and the  
24          Chairman of the Commission shall, at least twice each

1 year, conduct joint spectrum planning meetings with re-  
2 spect to the following issues—

3 (1) future spectrum needs;

4 (2) the spectrum allocation actions necessary to  
5 accommodate those needs, including consideration of  
6 innovation and marketplace developments that may  
7 affect the relative efficiencies of different portions of  
8 the spectrum; and

9 (3) actions necessary to promote the efficient  
10 use of the spectrum, including proven spectrum  
11 management techniques to promote increased shared  
12 use of the spectrum as a means of increasing non-  
13 United States Government access; and innovation in  
14 spectrum utilization including means of providing in-  
15 centives for spectrum users to develop innovative  
16 services and technologies.

17 (b) REPORTS.—The Secretary and the Chairman of  
18 the Commission shall submit a joint annual report to the  
19 President on the joint spectrum planning meetings con-  
20 ducted under subsection (a) and any recommendations for  
21 action developed in such meetings.

22 (c) OPEN PROCESS.—The Secretary and the Com-  
23 mission will conduct an open process under this section  
24 to ensure the full consideration and exchange of views

1 among any interested entities, including all private, public,  
2 commercial, and governmental interests.

3 **SEC. 214. IDENTIFICATION OF REALLOCABLE FRE-**  
4 **QUENCIES.**

5 (a) IDENTIFICATION REQUIRED.—The Secretary  
6 shall prepare and submit to the President the reports re-  
7 quired by subsection (d) to identify bands of frequencies  
8 that—

9 (1) are allocated on a primary basis for United  
10 States Government use and eligible for licensing  
11 pursuant to section 305(a) of the Communications  
12 Act;

13 (2) are not required for the present or identifi-  
14 able future needs of the United States Government;

15 (3) can feasibly be made available during the  
16 next 15 years after enactment of this title for use  
17 under the provisions of the Communications Act for  
18 non-United States Government users;

19 (4) will not result in costs to the Federal Gov-  
20 ernment that are excessive in relation to the benefits  
21 that may be obtained from the potential non-United  
22 States Government uses; and

23 (5) are likely to have significant value for non-  
24 United States Government uses under the Commu-  
25 nications Act.

1 (b) AMOUNT OF SPECTRUM RECOMMENDED.—

2 (1) IN GENERAL.—The Secretary shall rec-  
3 ommend as a goal for reallocation, for use by non-  
4 United States Government stations, bands of fre-  
5 quencies constituting a target amount of 200 MHz,  
6 that are located below 6 GHz, and that meet the cri-  
7 teria specified in paragraphs (1) through (5) of sub-  
8 section (a). If the Secretary identifies (as meeting  
9 such criteria) bands of frequencies totalling more  
10 than 200 MHz, the Secretary shall identify and rec-  
11 ommend for reallocation those bands (totalling not  
12 less than 200 MHz) that are likely to have the  
13 greatest potential for non-United States Government  
14 uses under the Communications Act.

15 (2) MIXED USES PERMITTED TO BE COUNT-  
16 ED.—Bands of frequencies which the Secretary rec-  
17 ommends be partially retained for use by United  
18 States Government stations, but which are also rec-  
19 ommended to be reallocated and made available  
20 under the Communications Act for use by non-Unit-  
21 ed States Government stations, may be counted to-  
22 ward the target 200 MHz of spectrum required by  
23 paragraph (1) of this subsection, except that—

24 (A) the bands of frequencies counted under  
25 this paragraph may not count toward more

1 than one-half of the amount targeted by para-  
2 graph (1) of this subsection;

3 (B) a band of frequencies may not be  
4 counted under this paragraph unless the assign-  
5 ments of the band to United States Government  
6 stations under section 305 of the Communica-  
7 tions Act are limited by geographic area, by  
8 time, or by other means so as to guarantee that  
9 the potential use to be made by which United  
10 States Government stations is substantially less  
11 (as measured by geographic area, time, or oth-  
12 erwise) than the potential United States Gov-  
13 ernment use to be made; and

14 (C) the operational sharing permitted  
15 under this paragraph shall be subject to proce-  
16 dures which the Commission and the Depart-  
17 ment of Commerce shall establish and imple-  
18 ment to ensure against harmful interference.

19 (c) CRITERIA FOR IDENTIFICATION.—

20 (1) NEEDS OF THE UNITED STATES GOVERN-  
21 MENT.—In determining whether a band of fre-  
22 quencies meets the criteria specified in subsection  
23 (a)(2), the Secretary shall—

24 (A) consider whether the band of fre-  
25 quencies is used to provide a communications

1 service that is or could be available from a com-  
2 mercial provider;

3 (B) seek to promote—

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

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

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

10 (iv) the use of nonradiating commu-  
11 nications systems where practicable;

12 (C) seek to avoid—

13 (i) serious degradation of United  
14 States Government services and oper-  
15 ations;

16 (ii) excessive costs to the United  
17 States Government and civilian users of  
18 such Government services; and

19 (iii) identification of any bands for  
20 reallocation that are likely to be subject to  
21 substitution for the reasons specified in  
22 section 405(b)(2)(A) through (C); and

23 (D) exempt power marketing administra-  
24 tions and the Tennessee Valley Authority from  
25 any reallocation procedures.

1           (2) FEASIBILITY OF USE.—In determining  
2 whether a frequency band meets the criteria speci-  
3 fied in subsection (a)(3), the Secretary shall—

4           (A) assume such frequencies will be as-  
5 signed by the Commission under section 303 of  
6 the Communications Act over the course of fif-  
7 teen years after the enactment of this title;

8           (B) assume reasonable rates of scientific  
9 progress and growth of demand for tele-  
10 communications services;

11           (C) determine the extent to which the  
12 reallocation or reassignment will relieve actual  
13 or potential scarcity of frequencies available for  
14 non-United States Government use;

15           (D) seek to include frequencies which can  
16 be used to stimulate the development of new  
17 technologies; and

18           (E) consider the cost to reestablish United  
19 States Government services displaced by the  
20 reallocation of spectrum during the fifteen year  
21 period.

22           (3) COSTS TO THE UNITED STATES GOVERN-  
23 MENT.—In determining whether a frequency band  
24 meets the criteria specified in subsection (a)(4), the  
25 Secretary shall consider—

1 (A) the costs to the United States Govern-  
2 ment of reaccommodating its services in order  
3 to make spectrum available for non-United  
4 States Government use, including the incremen-  
5 tal costs directly attributable to the loss of the  
6 use of the frequency band; and

7 (B) the benefits that could be obtained  
8 from reallocating such spectrum to non-United  
9 States Government users, including the value of  
10 such spectrum in promoting—

11 (i) the delivery of improved service to  
12 the public;

13 (ii) the introduction of new services;  
14 and

15 (iii) the development of new commu-  
16 nications technologies.

17 (4) NON-UNITED STATES GOVERNMENT USE.—  
18 In determining whether a band of frequencies meets  
19 the criteria specified in subsection (a)(5), the Sec-  
20 retary shall consider—

21 (A) the extent to which equipment is com-  
22 mercially available that is capable of utilizing  
23 the band; and

1           (B) the proximity of frequencies that are  
2           already assigned for non-United States Govern-  
3           ment use.

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

6           (1) SUBMISSION OF REPORTS TO THE PRESI-  
7           DENT TO IDENTIFY AN INITIAL 50 MHZ TO BE MADE  
8           AVAILABLE IMMEDIATELY FOR REALLOCATION, AND  
9           TO PROVIDE PRELIMINARY AND FINAL REPORTS ON  
10          ADDITIONAL FREQUENCIES TO BE REALLOCATED.—

11           (A) Within 3 months after the date of the  
12          enactment of this title, the Secretary shall pre-  
13          pare and submit to the President a report  
14          which specifically identifies an initial 50 MHz  
15          of spectrum that are located below 3 GHz, to  
16          be made available for reallocation to the Fed-  
17          eral Communications Commission upon issu-  
18          ance of this report, and to be distributed by the  
19          Commission pursuant to competitive bidding  
20          procedures.

21           (B) The Department of Commerce shall  
22          make available to the Federal Communications  
23          Commission 50 MHz as identified in subpara-  
24          graph (A) of electromagnetic spectrum for allo-  
25          cation of land-mobile or land-mobile-satellite

1 services. Notwithstanding section 553 of the  
2 Administrative Procedure Act and title III of  
3 the Communications Act, the Federal Commu-  
4 nications Commission shall allocate such spec-  
5 trum and conduct competitive bidding proce-  
6 dures to complete the assignment of such spec-  
7 trum in a manner which ensures that the pro-  
8 ceeds from such bidding are received by the  
9 Federal Government no later than September  
10 30, 1993. From such proceeds, Federal agen-  
11 cies displaced by this transfer of the electro-  
12 magnetic spectrum to the Federal Communica-  
13 tions Commission shall be reimbursed for rea-  
14 sonable costs directly attributable to such dis-  
15 placement. The Department of Commerce shall  
16 determine the amount of, and arrange for, such  
17 reimbursement. Amounts to agencies shall be  
18 available subject to appropriation Acts.

19 (C) Within 12 months after the date of the  
20 enactment of this title, the Secretary shall pre-  
21 pare and submit to the President a preliminary  
22 report to identify reallocable bands of fre-  
23 quencies meeting the criteria established by this  
24 section.

1 (D) Within 24 months after the date of en-  
2 actment of this title, the Secretary shall prepare  
3 and submit to the President a final report  
4 which identifies the target 200 MHz for  
5 reallocation (which shall encompass the initial  
6 50 MHz previously designated under subpara-  
7 graph (A)).

8 (E) The President shall publish the reports  
9 required by this section in the Federal Register.

10 (2) CONVENING OF PRIVATE SECTOR ADVISORY  
11 COMMITTEE.—Not later than 12 months after the  
12 enactment of this title, the Secretary shall convene  
13 a private sector advisory committee to—

14 (A) review the bands of frequencies identi-  
15 fied in the preliminary report required by para-  
16 graph (1)(C);

17 (B) advise the Secretary with respect to—

18 (i) the bands of frequencies which  
19 should be included in the final report re-  
20 quired by paragraph (1)(D); and

21 (ii) the effective dates which should be  
22 established under subsection (e) with re-  
23 spect to such frequencies;

1 (C) receives public comment on the Sec-  
2 retary's preliminary and final reports under this  
3 subsection; and

4 (D) prepare and submit the report re-  
5 quired by paragraph (4).

6 The private sector advisory committee shall meet at  
7 least quarterly until each of the actions required by  
8 section 405(a) have taken place.

9 (3) COMPOSITION OF COMMITTEE; CHAIR-  
10 MAN.—The private sector adviser committee shall in-  
11 clude—

12 (A) the Chairman of the Commission, and  
13 the Secretary, or their designated representa-  
14 tives, and two other representatives from two  
15 different United States Government agencies  
16 that are spectrum users, other than the Depart-  
17 ment of Commerce, as such agencies may be  
18 designated by the Secretary; and

19 (B) Persons who are representative of—

20 (i) manufacturers of spectrum-de-  
21 pendent telecommunications equipment;

22 (ii) commercial users;

23 (iii) other users of the electromagnetic  
24 spectrum; and

1 (iv) other interested members of the  
2 public who are knowledgeable about the  
3 uses of the electromagnetic spectrum to be  
4 chosen by the Secretary.

5 A majority of the members of the committee shall be  
6 members described in subparagraph (B), and one of  
7 such members shall be designated as chairman by  
8 the Secretary.

9 (4) RECOMMENDATIONS ON SPECTRUM ALLOCA-  
10 TION PROCEDURES.—The private sector advisory  
11 committee shall, not later than 12 months after its  
12 formation, submit to the Secretary, the Commission,  
13 the Committee on Energy and Commerce of the  
14 House of Representatives, and the Committee on  
15 Commerce, Science and Transportation of the Sen-  
16 ate, such recommendations as the committee consid-  
17 ers appropriate for the reform of the process of allo-  
18 cating the electromagnetic spectrum between United  
19 States Government users and non-United States  
20 Government users, and any dissenting views thereon.

21 (e) TIMETABLE FOR REALLOCATION AND LIMITA-  
22 TION.—The Secretary shall, as part of the final report re-  
23 quired by subsection (d)(1)(D), include a timetable for the  
24 effective dates by which the President shall, within 15  
25 years after enactment of this title, withdraw or limit as-

1 signments on frequencies specified in the report. The rec-  
2 ommended effective dates shall—

3 (1) permit the earliest possible reallocation of  
4 the frequency bands, taking into account the re-  
5 quirements of section 406(a);

6 (2) be based on the useful remaining life of  
7 equipment that has been purchased or contracted for  
8 to operate on identified frequencies;

9 (3) be based on the need to coordinate fre-  
10 quency use with other nations; and

11 (4) avoid the imposition of incremental costs on  
12 the United States Government directly attributable  
13 to the loss of the use of frequencies or the changing  
14 to different frequencies that are excessive in relation  
15 to the benefits that may be obtained from non-Unit-  
16 ed States Government uses of the reassigned fre-  
17 quencies.

18 **SEC. 215. WITHDRAWAL OF ASSIGNMENT TO UNITED**  
19 **STATES GOVERNMENT STATIONS.**

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

21 (1) within 3 months after receipt of the Sec-  
22 retary's report under section 404(d)(1)(A), withdraw  
23 or limit the assignment to a United States Govern-  
24 ment station of any frequency on the initial 50 MHz

1 which that report recommends for immediate  
2 reallocation;

3 (2) with respect to other frequencies rec-  
4 ommended for reallocation by the Secretary's report  
5 in section 404(d)(1)(D), by the effective dates rec-  
6 ommended pursuant to section 404(e) (except as  
7 provided in subsection (b)(4) of this section), with-  
8 draw or limit the assignment to a United States  
9 Government station of any frequency which that re-  
10 port recommends be reallocated or available for  
11 mixed use on such effective dates;

12 (3) assign or reassign other frequencies to  
13 United States Government stations as necessary to  
14 adjust to such withdrawal or limitation of assign-  
15 ments; and

16 (4) publish in the Federal Register a notice and  
17 description of the actions taken under this sub-  
18 section.

19 (b) EXCEPTIONS.—

20 (1) AUTHORITY TO SUBSTITUTE.—If the Presi-  
21 dent determines that a circumstance described in  
22 section 405(b)(2) exists, the President—

23 (A) may, within 1 month after receipt of  
24 the Secretary's report under section  
25 404(d)(1)(A), and within 6 months after receipt

1 of the Secretary's report under section  
2 404(d)(1)(D), substitute an alternative fre-  
3 quency or band of frequencies for the frequency  
4 or band that is subject to such determination  
5 and withdraw (or limit) the assignment of that  
6 alternative frequency or band in the manner re-  
7 quired by subsection (a); and

8 (B) shall publish in the Federal Register a  
9 statement of the reasons for taking the action  
10 described in subparagraph (A).

11 (2) GROUNDS FOR SUBSTITUTION.—For pur-  
12 poses of paragraph (1), the following circumstances  
13 are described in this paragraph:

14 (A) the reassignment would seriously jeop-  
15 ardize the national security interests of the  
16 United States;

17 (B) the frequency proposed for reassign-  
18 ment is uniquely suited to meeting important  
19 United States Governmental needs;

20 (C) the reassignment would seriously jeop-  
21 ardize public health or safety; or

22 (D) the reassignment will result in incre-  
23 mental costs to the United States Government  
24 that are excessive in relation to the benefits

1           that may be obtained from non-United States  
2           Government uses of the reassigned frequency.

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

10          (4) DELAYS IN IMPLEMENTATION.—If the  
11          President determines that any action cannot be com-  
12          pleted by the effective dates recommended by the  
13          Secretary pursuant to section 404(e), or that such  
14          an action by such date would result in a frequency  
15          being unused as a consequence of the Commission’s  
16          plan under section 406, the President may—

17                 (A) withdraw or limit the assignment to  
18                 United States Government stations on a later  
19                 date that is consistent with such plan, by pro-  
20                 viding notice to that effect in the Federal Reg-  
21                 ister, including the reason that withdrawal at a  
22                 later date is required; or

23                 (B) substitute alternative frequencies pur-  
24                 suant to the provisions of this subsection.

1 (c) COSTS OF WITHDRAWING FREQUENCIES AS-  
2 SIGNED TO THE UNITED STATES GOVERNMENT; APPRO-  
3 PRIATIONS AUTHORIZED.—Any United States Govern-  
4 ment licensee, or non-United States Government entity op-  
5 erating on behalf of a United States Government licensee,  
6 that is displaced from a frequency pursuant to this section  
7 may be reimbursed not more than the incremental costs  
8 it incurs, in such amounts as provided in advance in ap-  
9 propriation Acts, that are directly attributable to the loss  
10 of the use of the frequency pursuant to this section. The  
11 estimates of these costs shall be prepared by the affected  
12 agency, in consultation with the Department of Com-  
13 merce.

14 (d) There are authorized to be appropriated to the  
15 affected licensee agencies such sums as may be necessary  
16 to carry out the purposes of this section.

17 **SEC. 216. DISTRIBUTION OF FREQUENCIES BY THE COM-**  
18 **MISSION.**

19 (a) PLANS SUBMITTED.—

20 (1) With respect to the initial 50 MHz to be re-  
21 allocated from United States Government to non-  
22 United States Government use under section  
23 404(d)(1)(A), not later than 6 months after enact-  
24 ment of this title, the Commission shall complete a  
25 public notice and comment proceeding regarding the

1 allocation of this spectrum and shall form a plan to  
2 assign such spectrum pursuant to competitive bid-  
3 ding procedures, pursuant to section 408, during fis-  
4 cal years 1994 through 1996.

5 (2) With respect to the remaining spectrum to  
6 be reallocated from United States Government to  
7 non-United States Government use under section  
8 404(e), not later than 2 years after issuance of the  
9 report required by section 404(d)(1)(D), the Com-  
10 mission shall complete a public notice and comment  
11 proceeding; and the Commission shall, after con-  
12 sultation with the Secretary, prepare and submit to  
13 the President a plan for the distribution under the  
14 Communications Act of the frequency bands reallo-  
15 cated pursuant to the requirements of this title.  
16 Such plan shall—

17 (A) not propose the immediate distribution  
18 of all such frequencies, but, taking into account  
19 the timetable recommended by the Secretary  
20 pursuant to section 404(e), shall propose—

21 (i) gradually to distribute the fre-  
22 quencies remaining, after making the res-  
23 ervation required by subparagraph (ii),  
24 over the course of a 10-year period begin-

1           ning on the date of submission of such  
2           plan; and

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

6           (B) contain appropriate provisions to en-  
7           sure—

8                   (i) the availability of frequencies for  
9           new technologies and services in accord-  
10          ance with the policies of section 7 of the  
11          Communications Act (47 U.S.C. 157); and

12                   (ii) the availability of frequencies to  
13          stimulate the development of such tech-  
14          nologies; and

15          (C) not prevent the Commission from allo-  
16          cating bands of frequencies for specific uses in  
17          future rulemaking proceedings.

18          (b) AMENDMENT TO THE COMMUNICATIONS ACT.—  
19          Section 303 of the Communications Act is amended by  
20          adding at the end thereof the following new subsection:

21               “(u) Have authority to assign the frequencies reallo-  
22          cated from United States Government use to non-United  
23          States Government use pursuant to the Emerging Tele-  
24          communications Technologies Act of 1991, except that  
25          any such assignment shall expressly be made subject to

1 the right of the President to reclaim such frequencies  
2 under the provisions of section 407 of the Emerging Tele-  
3 communications Technologies Act of 1991.”.

4 **SEC. 217. AUTHORITY TO RECLAIM REASSIGNED FRE-**  
5 **QUENCIES.**

6 (a) **AUTHORITY OF PRESIDENT.**—The President may  
7 reclaim reallocated frequencies for reassignment to United  
8 States Government stations in accordance with this sec-  
9 tion.

10 (b) **PROCEDURE FOR RECLAIMING FREQUENCIES.**—

11 (1) **UNASSIGNED FREQUENCIES.**—If the fre-  
12 quencies to be reclaimed have not been assigned by  
13 the Commission, the President may reclaim them  
14 based on the grounds described in section 405(b)(2).

15 (2) **ASSIGNED FREQUENCIES.**—If the fre-  
16 quencies to be reclaimed have been assigned by the  
17 Commission, the President may reclaim them based  
18 on the grounds described in section 405(b)(2), ex-  
19 cept that the notification required by section  
20 405(b)(1) shall include—

21 (A) a timetable to accommodate an orderly  
22 transition for licensees to obtain new fre-  
23 quencies and equipment necessary for their uti-  
24 lization; and

1           (B) an estimate of the cost of displacing  
2           the licensees.

3           (c) COSTS OF RECLAIMING FREQUENCIES.—Any  
4 non-United States Government licensee that is displaced  
5 from a frequency pursuant to this section shall be reim-  
6 bursed the incremental costs it incurs that are directly at-  
7 tributable to the loss of the use of the frequency pursuant  
8 to this section.

9           (d) EFFECT ON OTHER LAW.—Nothing in this sec-  
10 tion shall be construed to limit or otherwise affect the au-  
11 thority of the President under section 706 of the Commu-  
12 nications Act (47 U.S.C. 606).

13 **SEC. 218. COMPETITIVE BIDDING.**

14           (a) COMPETITIVE BIDDING AUTHORIZED.—Section  
15 309 of the Communications Act is amended by adding the  
16 following new subsection:

17           “(j)(1)(A) The Commission shall use competitive bid-  
18 ding for awarding all initial licenses or new construction  
19 permits, including licenses and permits for spectrum re-  
20 allocated for non-United States Government use pursuant  
21 to the Emerging Telecommunications Technologies Act of  
22 1991, subject to the exclusions listed in paragraph (2).

23           “(B) The Commission shall require potential bidders  
24 to file a first-stage application indicating an intent to par-  
25 ticipate in the competitive bidding process and containing

1 such other information as the Commission finds necessary.  
2 After conducting the bidding, the Commission shall re-  
3 quire the winning bidder to submit a second-stage applica-  
4 tion. Upon determining that such application is acceptable  
5 for filing and that the applicant is qualified pursuant to  
6 subparagraph (C), the Commission shall grant a permit  
7 or license.

8 “(C) No construction permit or license shall be grant-  
9 ed to an applicant selected pursuant to subparagraph (B)  
10 unless the Commission determines that such applicant is  
11 qualified pursuant to section 308(b) and subsection (a) of  
12 this section, on the basis of the information contained in  
13 the first- and second-stage applications submitted under  
14 subparagraph (B).

15 “(D) Each participant in the competitive bidding  
16 process is subject to the schedule of changes contained in  
17 section 8 of this Act.

18 “(E) The Commission shall have the authority in  
19 awarding construction permits or licenses under competi-  
20 tive bidding procedures to (i) define the geographic and  
21 frequency limitations and technical requirements, if any,  
22 of such permits or licenses; (ii) establish minimum accept-  
23 able competitive bids; and (iii) establish other appropriate  
24 conditions on such permits and licenses that will serve the  
25 public interest.

1       “(F) The Commission, in designing the competitive  
2 bidding procedures under this subsection, shall study and  
3 include procedures—

4           “(i) to ensure bidding access for small and  
5 rural companies,

6           “(ii) if appropriate, to extend the holding period  
7 for winning bidders awarded permits or licenses, and

8           “(iii) to expand review and enforcement require-  
9 ments to ensure that winning bidders continue to  
10 meet their obligations under this Act.

11       “(G) The Commission shall, within 6 months after  
12 enactment of the Emerging Telecommunications Tech-  
13 nologies Act of 1991, following public notice and comment  
14 proceedings, adopt rules establishing competitive bidding  
15 procedures under this subsection, including the method of  
16 bidding and the basis for payment (such as flat fees, fixed  
17 or variable royalties, combinations of flat fees and royal-  
18 ties, or other reasonable forms of payment); and a plan  
19 for applying such competitive bidding procedures to the  
20 initial 50 MHz reallocated from United States Govern-  
21 ment to non-United States Government use under section  
22 404(d)(1)(A) of the Emerging Telecommunications Tech-  
23 nologies Act of 1991, to be distributed during the fiscal  
24 years 1994 through 1996.

25       “(2) Competitive bidding shall not apply to—

1           “(A) license renewals;

2           “(B) the United States Government and State  
3 or local government entities;

4           “(C) amateur operator services, over-the-air ter-  
5 restrial radio and television broadcast services, pub-  
6 lic safety services, and radio astronomy services;

7           “(D) private radio end-user licenses, such as  
8 Specialized Mobile Radio Service (SMRS), maritime,  
9 and aeronautical end-user licenses;

10           “(E) any license grant to a non-United States  
11 Government licensee being moved from its current  
12 frequency assignment to a different one by the Com-  
13 mission in order to implement the goals and objec-  
14 tives underlying the Emerging Telecommunications  
15 Technologies Act of 1991;

16           “(F) any other service, class of services, or as-  
17 signments that the Commission determines, after  
18 conducting public comment and notice proceedings,  
19 should be exempt from competitive bidding because  
20 of public interest factors warranting an exemption;  
21 and

22           “(G) small businesses, as defined in section  
23 3(a)(1) of the Small Business Act.

24           “(3) In implementing this subsection, the Commis-  
25 sion shall ensure that current and future rural tele-

1 communications needs are met and that existing rural li-  
2 censees and their subscribers are not adversely affected.

3 “(4) Monies received from competitive bidding pursu-  
4 ant to this subsection shall be deposited in the general  
5 fund of the United States Treasury.”.

6 (b) RANDOM SELECTION NOT TO APPLY WHEN COM-  
7 PETITIVE BIDDING REQUIRED.—Section 309(i)(1) of the  
8 Communications Act is amended by striking the period  
9 after the word “selection” and inserting “, except in in-  
10 stances where competitive bidding procedures are required  
11 under subsection (j).”.

12 (c) SPECTRUM ALLOCATION DECISIONS.—Section  
13 303 of the Communications Act is amended by adding the  
14 following new subsection:

15 “(v) In making spectrum allocation decisions among  
16 services that are subject to competitive bidding, the Com-  
17 mission is authorized to consider as one factor among oth-  
18 ers taken into account in making its determination, the  
19 relative economic values and other public interest benefits  
20 of the proposed uses as reflected in the potential revenues  
21 that would be collected under its competitive bidding pro-  
22 cedures.”.

23 **SEC. 219. DEFINITIONS.**

24 As used in this subtitle:

1           (1) The term “allocation” means an entry in  
2 the National Table of Frequency Allocations of a  
3 given frequency band for the purpose of its use by  
4 one or more radiocommunications services.

5           (2) The term “assignment” means an author-  
6 ization given by the Commission or the United  
7 States Government for a radio station to use a radio  
8 frequency or radio frequency channel.

9           (3) The term “Commission” means the Federal  
10 Communications Commission.

11           (4) The term “Communications Act” means the  
12 Communications Act of 1934 (47 U.S.C. 151 et  
13 seq.).

14           (5) The term “Secretary” means the Secretary  
15 of Commerce.

## 16           **Subtitle C—Other Provisions**

### 17           **SEC. 221. EXTENSION OF CURRENT LAW REGARDING LUMP-**

### 18                           **SUM WITHDRAWAL OF RETIREMENT CON-**

### 19                           **TRIBUTIONS FOR CIVIL SERVICE RETIREES.**

20           (a) CIVIL SERVICE RETIREMENT SYSTEM.—Section  
21 8343a(f)(3) of title 5, United States Code, is amended by  
22 striking out “October 1, 1995” and inserting in lieu there-  
23 of “October 1, 1996”.

24           (b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—  
25 Section 8420a(f)(3) of title 5, United States Code, is

1 amended by striking out “October 1, 1995” and inserting  
2 in lieu thereof “October 6, 1996”.

3 **SEC. 222. EXTENSION OF THE PATENT AND TRADEMARK**  
4 **OFFICE USER FEE SURCHARGE THROUGH**  
5 **1996.**

6 Section 10101 of the Omnibus Budget Reconciliation  
7 Act of 1990 (35 U.S.C. 41 note) is amended—

8 (1) in subsection (a) by striking “1995” and in-  
9 serting “1996”;

10 (2) in subsection (b)(2) by striking “1995” and  
11 inserting “1996”; and

12 (3) in subsection (c)—

13 (A) by striking “1995” the first place it  
14 appears and inserting “1996”; and

15 (B) by adding at the end the following new  
16 paragraph:

17 “(6) \$107,000,000 in fiscal year 1996.”

18 **SEC. 223. ONE-YEAR EXTENSION OF CUSTOMS USER FEES.**

19 Paragraph (3) of section 13031(j) of the Consoli-  
20 dated Omnibus Budget Reconciliation Act of 1985 (19  
21 U.S.C. 58c(j)(3)) is amended by striking out “1995” and  
22 inserting “1996”.

1 **SEC. 224. DISCLOSURES OF INFORMATION FOR VETERANS**  
2 **BENEFITS.**

3 (a) IN GENERAL.—Section 6103(l)(7)(D) (relating to  
4 programs to which rule applies) is amended by striking  
5 “September 30, 1992” in the last sentence and inserting  
6 “September 30, 1998”.

7 (b) CONFORMING AMENDMENT.—Section 5317(g) of  
8 title 38, United States Code, is amended by striking “Sep-  
9 tember 30, 1992” and inserting “September 30, 1998”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall take effect on September 30, 1992.

12 **SEC. 225. REVISION OF PROCEDURE RELATING TO CER-**  
13 **TAIN LOAN DEFAULTS.**

14 (a) REVISION.—Section 3732(c)(1)(C)(ii) of title 38,  
15 United States Code, is amended by striking out “resale,”  
16 and inserting in lieu thereof “resale (including losses sus-  
17 tained on the resale of the property),”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 subsection (a) shall take effect on October 1, 1991.

20 **SEC. 226. APPLICATION OF MEDICARE PART B LIMITS TO**  
21 **FEHBP ENROLLEE AGE 65 OR OLDER.**

22 (a) FEDERAL EMPLOYEES HEALTH BENEFITS PRO-  
23 GRAM.—Subsection 8904(b) of title 5, United States Code,  
24 is amended:

25 (1) by amending paragraph (1) to read as fol-  
26 lows:

1       “(b)(1)(A) A plan, other than a prepayment plan de-  
2 scribed in section 8903(4) of this title, may not provide  
3 benefits under this chapter, in the case of any individual  
4 enrolled in the plan who is not an employee and who is  
5 age 65 or older, to the extent that—

6           “(i) a benefit claim involves a charge by a  
7 health care provider for a type of service or medical  
8 item which is covered for purposes of benefit pay-  
9 ments under both this chapter and title XVIII of the  
10 Social Security Act (42 U.S.C. 1395–1395ccc) relat-  
11 ing to medicare hospital and supplementary medical  
12 insurance, and

13           “(ii) benefits otherwise payable under such pro-  
14 visions of law in the case of such individual would  
15 exceed applicable limitations on hospital and physi-  
16 cian charges established for medicare purposes  
17 under sections 1886 and 1848 of the Social Security  
18 Act (42 U.S.C. 1395ww and 1395w–4), respectively.

19       “(B)(i) For purposes of this subsection, hospitals,  
20 physicians, and other suppliers of medical and health serv-  
21 ices who have in force participation agreements with the  
22 Secretary of Health and Human Services consistent with  
23 sections 1842(h) and 1866 of the Social Security Act (42  
24 U.S.C. 1395u(h) and 1395cc), whereby the participating  
25 provider accepts medicare benefits in full payment of

1 charges for covered items and services after applicable pa-  
2 tient copayments under sections 1813, 1833 and  
3 1866(a)(2) of the Social Security Act (42 U.S.C. 1395e,  
4 1395l, and 1395cc(a)(2)) have been satisfied, shall accept  
5 equivalent benefit payments and enrollee copayments  
6 under this chapter as full payment for any item or service  
7 described under subparagraph (A) which is furnished to  
8 an individual who is enrolled under this chapter and is  
9 not covered for purposes of benefit payments applicable  
10 to such item or service under provisions of title XVIII of  
11 the Social Security Act.

12 “(ii) Physicians and other health care suppliers who  
13 are nonparticipating physicians, as defined by section  
14 1842(i)(2) of the Social Security Act (42 U.S.C.  
15 1395u(i)(2)) for purposes of services furnished to medi-  
16 care beneficiaries, may not bill in excess of the limiting  
17 charge prescribed under section 1848(g) of the Social Se-  
18 curity Act (42 U.S.C. 1395w-4(g)) when providing serv-  
19 ices described under subparagraph (A) to an individual  
20 who is enrolled under this chapter and is not covered for  
21 purposes of benefit payments applicable to those services  
22 under provisions of title XVIII of the Social Security Act.

23 “(iii) The Office of Personnel Management shall no-  
24 tify the Secretary of Health and Human Services if a hos-  
25 pital, physician, or other supplier of medical services is

1 found to knowingly and willfully violate this subsection  
2 and the Secretary shall invoke appropriate sanctions in ac-  
3 cordance with subsections 1128A(a)(2), 1848(g)(8), and  
4 1866(b)(2) of the Social Security Act (42 U.S.C. 1320a-  
5 7a(a)(2), 1395w-4(g)(8), and 1395cc(b)(2)) and applica-  
6 ble regulations.”; and

7 (2) by amending paragraph (3)(B) to read as  
8 follows:

9 “(B) For purposes of this paragraph, the  
10 term ‘medicare program information’ in-  
11 cludes—

12 “(i) the limitations on hospital  
13 charges established for medicare purposes  
14 under section 1886 of the Social Security  
15 Act (42 U.S.C. 1395ww) and the identity  
16 of hospitals which have in force agree-  
17 ments with the Secretary of Health and  
18 Human Services consistent with section  
19 1866 of the Social Security Act (42 U.S.C.  
20 1395cc); and

21 “(ii) the annual fee schedule amounts  
22 for services of participating physicians and  
23 ‘limiting charge’ information for  
24 nonparticipating physicians established for  
25 medicare purposes under section 1848 of

1 the Social Security Act (42 U.S.C. 1395w-  
2 4) and the identity of physicians and sup-  
3 pliers who have in force participation  
4 agreements with the Secretary consistent  
5 with subsection 1842(h) of the Social Se-  
6 curity Act (42 U.S.C. 1395u(h)).”.

7 (b) MEDICARE AGREEMENTS WITH INSTITUTIONAL  
8 PROVIDERS.—Section 1866(a)(1) of the Social Security  
9 Act (42 U.S.C. 1395cc(a)(1)) is amended—

10 (1) by striking out “and” at the end of sub-  
11 paragraph (P);

12 (2) by striking out the period at the end of sub-  
13 paragraph (Q) and inserting “, and”, and

14 (3) by inserting after subparagraph (Q) the fol-  
15 lowing new paragraph:

16 “(R) to accept as payment in full the  
17 amounts that would be payable under this part  
18 (including the amounts of any coinsurance and  
19 deductibles required of individuals entitled to  
20 have payment made on their behalf) for an item  
21 or service which the provider normally furnishes  
22 to patients (or others furnish under arrange-  
23 ment with the provider) and which is furnished  
24 to an individual who has attained age 65, is in-  
25 eligible to receive benefits under this part, and

1 is enrolled, other than as an employee, under a  
2 health benefits plan described in paragraphs (1)  
3 through (3) of section 8903 and section 8903a  
4 of title 5, United States Code, if such item or  
5 service is of a type that is covered under both  
6 this title and chapter 89 of title 5, United  
7 States Code.”.

8 (c) MEDICARE PARTICIPATING PHYSICIANS AND  
9 SUPPLIERS.—Section 1842(h)(1) of the Social Security  
10 Act (42 U.S.C. 1395u(h)(1)) is amended, after the second  
11 sentence, by inserting the following new sentence: “Such  
12 agreement shall provide, for any year beginning with  
13 1993, that the physician or supplier will accept as pay-  
14 ment in full the amounts that would be payable under this  
15 part (plus the amounts of any coinsurance or deductibles  
16 required of individuals on whose behalf payments are  
17 made under this title) for an item or service furnished dur-  
18 ing such year to an individual who has attained age 65,  
19 is ineligible to receive benefits under this part, and is en-  
20 rolled, other than as an employee, under a health benefits  
21 plan described in paragraphs (1) through (3) of section  
22 8903 and section 8903a of title 5, United States Code,  
23 if such item or service is of a type that is covered under  
24 both this part and chapter 89 of title 5, United States  
25 Code.”.

1 (d) MEDICARE ACTUAL CHARGE LIMITATION FOR  
2 NONPARTICIPATING PHYSICIANS.—Section 1848(g) of the  
3 Social Security Act (42 U.S.C. 1359w-4(g)) is amended  
4 by adding at the end thereof the following paragraph:

5 “(8) LIMITATION OF ACTUAL CHARGES FOR EN-  
6 ROLLEES OF THE FEDERAL EMPLOYEES HEALTH  
7 BENEFITS PROGRAM.—(A) A nonparticipating physi-  
8 cian shall not impose an actual charge in excess of  
9 the limiting charge defined in paragraph (2) for  
10 items and services furnished after 1993 in any case  
11 involving—

12 “(i) an individual who has attained age 65,  
13 is ineligible to receive benefits under this part,  
14 and is enrolled, other than as an employee,  
15 under a health benefits plan described in para-  
16 graphs (1) through (3) or section 8903 or sec-  
17 tion 8903a of title 5, United States Code; and

18 “(ii) an item or service of a type that is  
19 covered for benefits under both this part and  
20 chapter 89 of title 5, United States Code.

21 “(B) If a person knowingly and willfully bills  
22 for physicians’ services in violation of subparagraph  
23 (A), the Secretary shall apply sanctions against the  
24 person in accordance with section 1842(j)(2).”.

25 (e) EFFECTIVE DATES.—

1           (1) Except as provided in paragraph (2), the  
2           amendments made by this section shall be effective  
3           with respect to health care provider charges for  
4           items and services furnished to individuals enrolled  
5           in plans under chapter 89 of title 5, United States  
6           Code, in contract years beginning after December  
7           31, 1993.

8           (2) The amendment made by subsection (b) ap-  
9           plies to agreements for periods after 1991.

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S 19 IS—2

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