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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, July 8, 1997, at 12:30 p.m.

Senate

FRIDAY, JUNE 27, 1997

The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of this Nation, Lord of our lives and Author of the liberties we enjoy as citizens, may this Fourth of July week of recess be a time of renewal of our commitment to you as leaders of our Nation. May Independence Day really be a dependence day for us and our fellow Americans as we express our total dependence on You. We want our observance to be more than picnics, firecrackers, and parades. As we celebrate the birth of our Nation, we want to reaffirm the vision for America you planted in our Founding Fathers and Mothers, as well as the unique role You have given this Nation as a demonstration of democracy.

When we say the words, ''One Nation under God'' in the Pledge of Allegiance, may it be a fresh dedication to work for righteousness and justice in every aspect of society. We confess what contradicts our declaration of dependence on You. We reflect on our secularized society that gives little thought to You. Our motto is ''In God We Trust'' and yet, our trust often is placed in materialism and scientific humanism. We repent and ask Your forgiveness.

Dear God, You have answered the prayers of Your people in the crises of our history. Today, we pray for a spiritual awakening to spread across the land. We know that only what has happened to us can happen through us. So begin the awakening here in the Senate, in each Senator and in all of us who work with them. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from Delaware, is recognized.

SCHEDULE

Mr. ROTH. Mr. President, for the information of all Senators, this morning the Senate will resume consideration of S. 949, the Tax Relief Act of 1997, and begin another lengthy series of rollcall votes. As previously ordered, the series of stacked rollcall votes will begin on or in relation to the Nickles amendment, followed by the Gramm amendment and the Kerry amendment. Following the disposition of the aforementioned stacked votes, the Senate will proceed to a vote on a number of process amendments under the control of Senator DOMENICI. After those amendments have been disposed of, Senators will have the right to offer an amendment to the bill, with 2 minutes of debate equally divided on the proposed amendment.

However, it is hoped, and I would like to emphasize, that Members will refrain from offering amendments so that the Senate may complete action on this bill at a reasonable time.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from New York.

Mr. MOYNIHAN. Can I simply endorse my revered chairman's judgment? We have had a good debate. We have a good bill, a bipartisan bill. The prospects of any serious change are not large. The prospect of any serious attention to new proposals are not great—not today. The Senate is a continuing body and we will continue to discuss matters, but today is the time for closing out this legislation so we can go to conference and send a bill to the President.

Mr. ROTH. What is the order of business?

Mr. KENNEDY. Will the Senator yield for a question?

Mr. ROTH. I yield.

Mr. KENNEDY. After the process amendment, there may be an amendment offered on the Republican side. We are prepared to move ahead to get on the list; would that be agreeable? Can I ask consent, after the sequencing, there may be an amendment on the Republican side and we could have consideration?

Mr. ROTH. I say to the distinguished Senator from Massachusetts, we have you on the list for three separate amendments.

Mr. KENNEDY. Just one amendment.

Mr. MOYNIHAN. That is the spirit.

Mr. ROTH. I say to the distinguished Senator and to my colleague, Senator MOYNIHAN, that we have a list of both Republican and Democrat amendments. They are set in a particular order. We do intend to go from one side to the other side.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. MOYNIHAN. May I just ask in terms of who appears and asks for recognition, the first three pending amendments are, in fact, stacked?

Mr. ROTH. That is correct.

Mr. MOYNIHAN. The rest are just amendments that may be offered.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Massachusetts will follow the process.

Mr. MCCAIN. Reserving the right to object, I ask a question of the Senator from Delaware. Will there be a unanimous-consent agreement propounded of some list of priority of these amendments so that the Senators will know when their amendment will be considered?

Mr. ROTH. I say to my distinguished friend from Arizona we could set such a list. I thought at the beginning we would move informally, but as time proceeds we will try to set a list.

Mr. MCCAIN. Further reserving the right to object, we all know, as the day wears on, there will be increasing pressures because of the departure as articulated by my friend from Nevada last night, so it is of some interest as to which priority, after the initial amendments that were agreed to last night, will be considered.

I ask both the Democrat leader and the managers, both managers of the bill, if we could have some predictability associated with that.

I remove my objection.

Mr. COVERDELL. Mr. President, reserving the right to object, these amendments have been around for some time, and I would think there would have already been a sequence of priorities. This proposal ought not to be muscling around here.

Mr. ROTH. I say to the distinguished Senator we do have a sequence of amendments and we intend to go down the sequence of amendments from Democrat to Republican.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

REVENUE RECONCILIATION ACT OF 1997

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of Senate bill 949, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 949) to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

The Senate resumed consideration of the bill.

Pending:

Dorgan amendment No. 515, to authorize the Secretary of the Treasury to abate the accrual of interest on income tax underpayments by taxpayers located in Presidentially declared disaster areas if the Secretary extends the time for filing returns and payment of tax (and waives any penalties relating to the failure to so file or so pay) for such taxpayers.

Dorgan Amendment No. 516, to provide tax relief for taxpayers located in Presidentially declared disaster areas.

Jeffords amendment No. 522, to provide for a trust fund for District of Columbia school renovations.

Domenici-Lautenberg amendment No. 537, to implement the enforcement provisions of the Bipartisan Budget Agreement, enforce the Balanced Budget Act of 1997, extend the Budget Enforcement Act of 1990 through fiscal year 2002, and make technical and conforming changes to the Congressional Budget and Impoundment Control Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985.

Biden amendment No. 539 (to amendment No. 537), to provide for the transfer of funds from the general fund to the Violent Crime Reduction Trust Fund.

Nickles modified amendment No. 551, to provide for an increase in deduction for health insurance costs of self-employed individuals, and to modify rules for allocating interest expense to tax-exempt interest.

Gramm amendment No. 552, to allow families to decide for themselves how best to use their child tax credit.

Kerry amendment No. 554, to allow payroll taxes to be included in the calculation of tax liability for receiving the children's tax credit.

AMENDMENT NO. 551, AS MODIFIED

The PRESIDING OFFICER. The pending business is the Nickles amendment No. 551, with 2 minutes equally divided for debate.

Mr. NICKLES. Mr. President, on behalf of myself, Senator HAGEL, Senator ABRAHAM, Senator DOMENICI, and others, the amendment that we proposed last night we have modified. We did receive some requests from Senators to delete the provision that dealt with corporate deductibility of tax exempts. That was not a major portion of the amendment. We did delete that.

I might mention I think it is a good provision. It is a provision that is in the House bill, so it will be in conference.

Mr. President, this amendment accelerates self-employed deductibility for insurance. It allows self-employed individuals to be able to deduct a greater proportion of their health insurance needs. It increases it. For example, in 1997, current law is 40 percent; it increases it to 50 percent. In 1999 it increases it to 60 percent. And so on.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KERREY. I am not in opposition, but with the 2-percent provision stricken, I ask unanimous consent to be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I also ask unanimous consent that Senator THURMOND be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. ROBERTS] is necessarily absent.

Mr. FORD. I announce that the Senator from Illinois [Ms. MOSELEY-BRAUN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 138 Leg.]

YEAS—98

Abraham	Faircloth	Lieberman
Akaka	Feingold	Lott
Allard	Feinstein	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McCain
Bennett	Glenn	McConnell
Biden	Gorton	Mikulski
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boxer	Grams	Murray
Breaux	Grassley	Nickles
Brownback	Gregg	Reed
Bryan	Hagel	Reid
Bumpers	Harkin	Robb
Burns	Hatch	Rockefeller
Byrd	Helms	Roth
Campbell	Hollings	Santorum
Chafee	Hutchinson	Sarbanes
Cleland	Hutchison	Sessions
Coats	Inhofe	Shelby
Cochran	Inouye	Smith (NH)
Collins	Jeffords	Smith (OR)
Conrad	Johnson	Snowe
Coverdell	Kempthorne	Specter
Craig	Kennedy	Stevens
D'Amato	Kerrey	Thomas
Daschle	Kerry	Thompson
DeWine	Kohl	Thurmond
Dodd	Kyl	Torricelli
Domenici	Landrieu	Warner
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	Wyden
Enzi	Levin	

NOT VOTING—2

Moseley-Braun	Roberts

The amendment (No. 551), as modified, was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I ask unanimous consent that the remaining votes in sequence be limited to 10 minutes in length.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, is this going to be a real 10 minutes?

Mr. LOTT. Mr. President, I can respond to that question. I was just fixing to say that the 10 minutes be strictly enforced. Please don't leave the Chamber. We just had a couple of Senators that didn't make that vote because it had been beyond the normal time. When the 10 minutes is up we are going to turn it in.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I have a further unanimous consent.

Mr. President, I am asking unanimous consent that following the previously ordered stacked vote that the remainder of the sequence be in an alternating fashion with the two managers determining the order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROTH. Mr. President, I ask unanimous consent that following the disposition of the Kerry amendment No. 554 that Senator DOMENICI be recognized to offer an amendment No. 537, to be followed by the amendments in the following order: Biden-Gramm, Gramm, Bumpers, Craig, Brownback, Frist, Abraham, and Byrd.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 552

Mr. ROTH. Mr. President, what is the order of business before us?

The PRESIDING OFFICER. The pending amendment is the Gramm of Texas amendment No. 552.

Mr. ROTH. I yield the floor.

The PRESIDING OFFICER. The debate is limited to 2 minutes equally divided.

The Senator from Texas.

Mr. GRAMM. Mr. President, from the very beginning of this tax debate we have talked about a $500 tax credit per child. And the logic has been to let working families decide how to spend their money on their children. Then suddenly out of the Finance Committee on a very close vote has come a provision that says we are going to give you a $500 tax credit but you get it only if you use it the way we determine you should use it, which is to have an educational IRA. I think educational IRAs are wonderful, if you can afford them. But the whole purpose of the $500 tax credit was to let working families decide.

I know the Senate is full of brilliant people, and we think we can decide things for families better than they can. But that violates the agreement we had with the American people on this bill. We hear every time an issue is debated that this violates the commitment to the Congress, or it violates the commitment to the President. This provision violates the commitment to the American people, and all of us talk about a $500 tax credit. We talk about parents choosing. Let's let them choose.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. There is 1 minute to the opposition.

Mr. ROTH. Mr. President, I strongly oppose this amendment.

We had two goals in this legislation: To provide tax relief to the family, to provide assistance for higher education to the families, and this carefully crafted compromise does exactly that.

I yield what time is remaining to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. The problem of bringing up the amendment is there is no requirement that the tax credit be used for the child. This is a per-child tax credit. We think there should be at least some encouragement that it be used for the child.

Mr. KERREY. Mr. President, this provision would change American families with children, and it will generate more wealth. It is good for American families. We have been talking about it. In addition to the child tax credit, there are a number of us—Republicans and Democrats—talking about ways to make this tax credit a vehicle for generating wealth for the last few years. It is a good provision.

I hope my colleagues will vote against the motion to strike.

The PRESIDING OFFICER. The time has expired.

Mr. ROTH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 46, nays 54, as follows:

[Rollcall Vote No. 139 Leg.]

YEAS—46

Abraham	Enzi	Murkowski
Akaka	Faircloth	Nickles
Allard	Frist	Roberts
Ashcroft	Gramm	Santorum
Bond	Grams	Sessions
Brownback	Hagel	Shelby
Burns	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Coats	Hutchison	Snowe
Collins	Inhofe	Thomas
Conrad	Johnson	Thompson
Coverdell	Kempthorne	Thurmond
D'Amato	Kyl	Warner
DeWine	Lugar	Wellstone
Domenici	McCain	
Dorgan	McConnell	

NAYS—54

Baucus	Ford	Levin
Bennett	Glenn	Lieberman
Biden	Gorton	Lott
Bingaman	Graham	Mack
Boxer	Grassley	Mikulski
Breaux	Gregg	Moseley-Braun
Bryan	Harkin	Moynihan
Bumpers	Hatch	Murray
Byrd	Hollings	Reed
Chafee	Inouye	Reid
Cleland	Jeffords	Robb
Cochran	Kennedy	Rockefeller
Craig	Kerrey	Roth
Daschle	Kerry	Sarbanes
Dodd	Kohl	Specter
Durbin	Landrieu	Stevens
Feingold	Lautenberg	Torricelli
Feinstein	Leahy	Wyden

The amendment (No. 552) was rejected.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. May we have order, please.

Mr. ROTH. Mr. President, what is the pending order?

Mr. MOYNIHAN. Mr. President, we must have order.

The PRESIDING OFFICER. We will not proceed until there is order in the Chamber.

AMENDMENT NO. 554

The PRESIDING OFFICER. The pending question is on the Kerry of Massachusetts amendment No. 554.

Mr. ROTH. Mr. President, I yield the floor.

Mr. KERRY. Mr. President, may we have order.

The PRESIDING OFFICER. Two minutes equally divided. The Senator from Massachusetts.

Mr. KERRY. May we have order, Mr. President.

The PRESIDING OFFICER. May we have order, please.

Mr. KERRY. Mr. President, we just heard the Senator from Texas talk about getting a child tax credit for children. Under the child tax credit as it is written in the Finance Committee bill, 99 percent of the children eligible in the lowest 20 percent of income will not get it; 86 percent of the children in the next quintile will not get it. This is because, as we all know, most people in America pay their taxes by the payroll tax.

What I do in my amendment is take the Contract With America provision that was supported by Senator GRAMM, Senator LOTT, and Senator COATS and apply a refundable tax credit so that we expand by 7 million the number of children who will be given a tax credit. If we really want the working people of America to get this credit, it is appropriate that a working family that is earning $22,000 with two parents and two children be able to get the credit. Under the current legislation, they would not get the credit.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KERRY. Only by the Contract With America provision can we expand the number of children.

The PRESIDING OFFICER. One minute in opposition. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I urge any colleagues to vote no on the Kerry amendment. This is really an amendment to make the credit refundable. Another way of saying that, this is a way for the Federal Government to spend more money. Costed out, the outlays will increase in this bill under this amendment by $22 billion over 5 years, by $47 billion over 10 years.

I might mention, refundable credits are one of the most fraudulent in government. The EITC program has exploded. It has an error rate of over 25 percent. This is an amendment to redistribute wealth, and it denies tax credits for families that have incomes above $60,000. I urge my colleagues to vote no on this amendment.

Mr. DOMENICI. Mr. President, I rise to make a point of order against the

amendment. It would increase outlays by $22 billion over 5 years, $47 billion over 10 years and it thus violates section 302(b) of the Budget Act.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, this is revenue neutral, and I move to waive the Budget Act to accept a revenue neutral amendment.

The PRESIDING OFFICER. Does the Senator ask for the yeas and nays?

Mr. ROTH. Yeas and nays.

Mr. KERRY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The PRESIDING OFFICER. The yeas and nays were ordered.

There are 2 minutes equally divided on this vote.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, let me just say to my colleagues this does not cost one penny additional because we change the phase-in. It is $100,000 plus that you extended to the people in the Finance Committee. I put the phaseout at $65,000 to $70,000, and we phase in the children by age. So there is no impact on the budget. It is revenue neutral.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. May we have order, please.

Mr. KERRY. And it extends it to 7 million additional children. You cannot say you are covering working children in America if a working family is not able to take advantage of the credits.

The PRESIDING OFFICER. The time has expired.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. If we can all have order, please.

The Senator from Oklahoma has 1 minute.

Mr. NICKLES. Mr. President, I am advised by the Senator from New Mexico that the low-income family with two children under the EITC Program, if they have incomes of about $14,000, receive a refundable tax credit of $3,680, a lot more than their total tax liability. The Senator from Massachusetts wants to add to that and increase outlays by $22 billion.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, there is a budget point of order, neutrality or no neutrality. The expenditures in this amendment exceed the expenditures that are allocated under the budget resolution, and the Budget Act says you cannot spend more than is allocated to the committee, regardless of whether it is neutral or not.

Mr. BYRD. Mr. President, may we have order in the Chamber.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The Senate will be in order. The question is on agreeing to the motion to waive the point of order. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Illinois [Mr. DURBIN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 39, nays 60, as follows:

[Rollcall Vote No. 140 Leg.]

YEAS—39

Akaka	Feingold	Lautenberg
Biden	Feinstein	Leahy
Bingaman	Ford	Levin
Boxer	Glenn	Mikulski
Breaux	Harkin	Murray
Bumpers	Hollings	Reed
Cleland	Inouye	Reid
Coats	Jeffords	Robb
Collins	Johnson	Sarbanes
Conrad	Kennedy	Specter
Daschle	Kerry	Torricelli
Dodd	Kohl	Wellstone
Dorgan	Landrieu	Wyden

NAYS—60

Abraham	Frist	McCain
Allard	Gorton	McConnell
Ashcroft	Graham	Moseley-Braun
Baucus	Gramm	Moynihan
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Brownback	Gregg	Roberts
Bryan	Hagel	Rockefeller
Burns	Hatch	Roth
Byrd	Helms	Santorum
Campbell	Hutchinson	Sessions
Chafee	Hutchison	Shelby
Cochran	Inhofe	Smith (NH)
Coverdell	Kempthorne	Smith (OR)
Craig	Kerrey	Snowe
D'Amato	Kyl	Stevens
DeWine	Lieberman	Thomas
Domenici	Lott	Thompson
Enzi	Lugar	Thurmond
Faircloth	Mack	Warner

NOT VOTING—1

Durbin

The PRESIDING OFFICER. On this vote the nays are 60, the ayes are 39. Three-fifths of the Senators duly chosen and sworn not voting in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 537

The PRESIDING OFFICER. The question now is on the Domenici amendment No. 537, to which the pending business is the second-degree amendment, No. 539.

The Senator from New Mexico.

AMENDMENT NO. 539 TO AMENDMENT NO. 537

Mr. DOMENICI. I do not see Senator BIDEN on the floor but I do see Senator GRAMM. Do you object if I modify my amendment to include your Biden-Gramm amendment, so when we vote on mine we would be taking yours with us?

Mr. GRAMM. Why don't we put it on my amendment?

Mr. DOMENICI. I will object. Do you object?

Mr. GRAMM. No, being a sweet, wonderful person, I will not object.

Mr. DOMENICI. Being that everyone in the Chamber would want it to happen, he agrees.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The amendment (No. 539) was agreed to.

AMENDMENT NO. 537, AS AMENDED

The PRESIDING OFFICER. There will be 2 minutes equally divided.

Mr. DOMENICI. Mr. President, I am the proponent of the waiver at this point, so I get 1 minute for the waiver.

All we have done here is taken current law, with reference to points of order and the processes that we have to enforce budgets, the pay-go, and what we put in is the 5-year caps which we did on the last 5-year budget. We only did 2 years on the defense wall instead of 5. That exists today.

Mr. MOYNIHAN. Mr. President, we must have order.

The PRESIDING OFFICER (Ms. COLLINS). The Senate will be in order.

Mr. DOMENICI. So, in order to enforce the agreement that we are claiming is a balanced budget, we must adopt this amendment or it is unenforceable, in terms of the appropriated accounts.

Mr. MOYNIHAN. Madam President, might I just take a moment to observe that, with no uproar, we are about to do something rather important. In this vote on budget procedures we are going to legislate a change in the inflation index used to update official calculations of baseline spending.

Under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings), required inflation adjustments are made using a ''fixed-weight index'' produced by the Commerce Department's Bureau of Economic Analysis. Section 1559(a)(3), of the changes in budget enforcement procedures now before us, require that in the future the adjustments should be based on the ''domestic product chain-type price index''—also produced by the Bureau of Economic Analysis. Given the improvements in index number theory, this is a perfectly appropriate change.

Might I also just remind my colleagues that the Department of Labor's Bureau of Labor Statistics compiles two other indexes used by the Government—CPI–U which is used to adjust provisions of the Tax Code and CPI–W which is used to adjust benefits such as Social Security.

For the record I note that none of these indexes give the same estimate of inflation.

Here are the numbers for 1996:

[In percent]

CPI–U	3.0
CPI–W	2.9
Fixed Weight Price Index	2.3
Chain Weight Price Index	2.1

Today's vote on budget procedures should be recalled when we return—as we must—to the issue of producing an accurate cost of living index for the purpose of automatic indexation of

Government programs. No one is referring to today's legislative actions as ''politicizing'' the calculation of budget updates. We are just getting the numbers right.

And no one should refer to legislating a correction in automatic indexation formulas as a ''political'' fix.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I ask unanimous consent that Senators HATCH and GREGG be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I would like the 1 minute on the Biden-Gramm second-degree amendment.

The PRESIDING OFFICER. The 1 minute has expired.

Mr. GRAMM. But we have a second-degree amendment that was added to the Domenici amendment by unanimous consent. We would like it.

The PRESIDING OFFICER. The amendment has been accepted. All time has expired.

Mr. DOMENICI. I ask consent that he gets 1 minute. It is fair.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Texas.

The Senate will be in order.

Mr. GRAMM. Let me take 30 seconds and allow Senator BIDEN to have the other 30 seconds. Our colleagues will remember that we set up a violent crime trust fund to guarantee adequate funding for law enforcement, and for our antidrug effort. That provision was set to expire and all we are doing in this amendment is simply extending that trust fund. This is a mightily important matter. I am confident no one is going to oppose it. I simply wanted to make note of what we are doing. I yield the remainder of the time.

Mr. BIDEN. Madam President, there is nothing to add. This is simply extending the extent, the life of this agreement—the existence of the trust fund.

VOTE ON AMENDMENT NO. 537, AS AMENDED

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 98, nays 2, as follows:

[Rollcall Vote No. 141 Leg.]

YEAS—98

Abraham	Allard	Baucus
Akaka	Ashcroft	Bennett
Biden	Glenn	Mack
Bingaman	Gorton	McCain
Bond	Graham	McConnell
Boxer	Gramm	Mikulski
Breaux	Grams	Moseley-Braun
Brownback	Grassley	Moynihan
Bryan	Gregg	Murkowski
Burns	Hagel	Murray
Byrd	Harkin	Nickles
Campbell	Hatch	Reed
Chafee	Helms	Reid
Cleland	Hollings	Robb
Coats	Hutchinson	Roberts
Cochran	Hutchison	Rockefeller
Collins	Inhofe	Roth
Conrad	Inouye	Santorum
Coverdell	Jeffords	Sarbanes
Craig	Johnson	Sessions
D'Amato	Kempthorne	Shelby
Daschle	Kennedy	Smith (NH)
DeWine	Kerrey	Smith (OR)
Dodd	Kerry	Snowe
Domenici	Kohl	Specter
Dorgan	Kyl	Stevens
Durbin	Landrieu	Thomas
Enzi	Lautenberg	Thompson
Faircloth	Leahy	Thurmond
Feingold	Levin	Torricelli
Feinstein	Lieberman	Warner
Ford	Lott	Wyden
Frist	Lugar	

NAYS—2

Bumpers	Wellstone

The amendment (No. 537), as amended, was agreed to.

Mr. MOYNIHAN. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, what actually happened on that vote, the Parliamentarian misunderstood and he had us vote up or down on this amendment, and I had asked that it be a waiver of the Budget Act. In light of the fact we have—how many votes?

The PRESIDING OFFICER. Ninety-eight yeas.

Mr. DOMENICI. I would like to clear the amendment and make sure we have waived the Budget Act for this amendment so it is no longer possible to raise a point of order against it.

So I move to waive the Budget Act for consideration of this amendment to this bill and any conference report that returns with it in.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act with respect to amendment No. 539, as amended.

The motion was agreed to.

Mr. MOYNIHAN. Madam President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. The next amendment is Senator GRAMM's.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 566

(Purpose: To guarantee a balanced Federal budget and expand tax relief options)

Mr. GRAMM. Madam President, let me remind everybody that in the budget that we are enforcing here, we had $7 billion of net deficit reduction as compared to current policy. Ninety-seven percent of deficit reduction was simply assumed. That deficit reduction and policy changes has now fallen to $1 billion because we are short on spectrum.

Everything we are doing in balancing the budget is based on assumptions. The only enforcement mechanism we now have is on discretionary spending, and the first act in considering this budget was waiving that discretionary spending cap in the last budget.

My amendment sets out the deficit reduction targets that we have committed to and enforces them with an across-the-board cut if we refuse to meet them. Also, my provision says that in paying for a tax cut, you can pay for it by cutting entitlements, by raising other taxes or by lowering the discretionary spending caps. So it gives us the option in the future, if we ever do another tax cut, to not have to cut Medicare in order to pay for tax cuts, so that if we want to reduce discretionary spending and put a spending cap in place, we can do it.

This budget has a lot of assumptions in it. We need as strong as possible an enforcement. If you want strong enforcement, vote for this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, I oppose the Gramm amendment. The amendment would radically change current budget rules by allowing temporary, unspecified cuts in discretionary programs to pay for permanent tax cuts. That would violate the bipartisan budget agreement and could explode the deficit in the future.

This amendment also brings back the discredited Gramm-Rudman system of automatic across-the-board cuts, the system that led to a proliferation of gimmicks and rosy scenarios, and we didn't significantly reduce the deficit until we got rid of it.

Madam President, fool me once, shame on you; fool me twice, shame on us. I yield the remainder of my time to my colleague from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, Gramm-Rudman-Hollings didn't work before, and it won't work the next time. The Senator from Texas would like to put back into effect Gramm-Rudman-Hollings automatic sequesters if you miss your targets. As a Senator, I personally don't believe you ought to offset appropriated accounts, to cut them to put in permanent tax cuts. I think that deserves far more consideration than 30 seconds on the floor of the Senate.

Mr. LAUTENBERG. Madam President, I raise a point of order that the pending amendment is extraneous and violates section 313(b)(1)(A) of the Congressional Budget Act.

The PRESIDING OFFICER. If the Senator will withhold, the clerk will first report the amendment.

The bill clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 566.

Mr. GRAMM. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC. . GUARANTEED BALANCED BUDGET.

(a) MAXIMUM DEFICIT AMOUNT.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (b), in the last sentence by striking the period and inserting ''and $10,000,000,000 for fiscal years 1998 and thereafter.''; and

(2) by striking subsections (g) and (h) and inserting the following:

''(g) MAXIMUM DEFICIT AMOUNT.—In this section—

''(1) Notwithstanding any provision of this or the term 'deficit' shall have the same meaning as the term 'deficit' in section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 as on the day before the date of enactment of the Budget Enforcement Act of 1990; and

''(2) the term 'maximum deficit amount' means—

''(A) with respect to fiscal year 1998, $90,500,000,000;

''(B) with respect to fiscal year 1999, $89,500,000,000;

''(C) with respect to fiscal year 2000, $82,900,000,000;

''(D) with respect to fiscal year 2001, $53,100,000,000;

''(E) with respect to fiscal year 2002 and fiscal years thereafter, zero.''

(b) LOOK-BACK SEQUESTER.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following new subsection:

''(h) LOOK-BACK SEQUESTER.—

''(1) IN GENERAL.—On July 1 of each fiscal year, the Director of OMB shall determine if laws effective during the current fiscal year will cause the deficit to exceed the maximum deficit amount for such fiscal year. If the limit is exceeded, there shall be a preliminary sequester of July 1 to eliminate the excess.

''(2) PERMANENT SEQUESTER.—Budget authority sequestered on July 1 pursuant to paragraph (1) shall be permanently canceled on July 15.

''(3) NO MARGIN.—The margin for determining a sequester under this subsection shall be zero.

''(4) SQUESTRATION PROCEDURES.—The provision of subsections (c), (d), and (e) of this section shall apply to a sequester under this subsection.''

(c) OFFSETTING TAX CUTS WITH CUTS IN DISCRETIONARY SPENDING.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

''(f) OFFSETS WITH DISCRETIONARY SPENDING.—For purposes of subsection (b), revenue reductions increasing the deficit may be offset by reductions in discretionary appropriated amounts reducing the deficit.''.

(d) ADJUSTMENT OF DISCRETIONARY SPENDING LEVELS FOR TAX CUTS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

''(I) TAX RELIEF ADJUSTMENTS.—If, for any fiscal year or years, appropriations for discretionary appropriations are reduced that Congress and the President designate in statute as offsets for tax relief, the adjustments shall be the total amount of such reductions in appropriations in discretionary accounts and the outlays flowing in all years from such reduction.''

(e) Notwithstanding, any provision of this or any other Act, section 253 of the Balanced Budget and Emergency Deficit Control Act is extended through fiscal year 2002.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, under section 904 of the Budget Act, I move to waive the point of order against the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act with respect to amendment No. 566. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 37, nays 63, as follows:

[Rollcall Vote No. 142 Leg.]

YEAS—37

Abraham	Grams	Mack
Allard	Grassley	McCain
Ashcroft	Gregg	McConnell
Bond	Hagel	Nickles
Brownback	Hatch	Santorum
Coats	Helms	Sessions
Collins	Hollings	Shelby
Coverdell	Hutchinson	Smith (NH)
Craig	Hutchison	Thomas
Enzi	Inhofe	Thompson
Faircloth	Kempthorne	Thurmond
Frist	Kyl	
Gramm	Lott	

NAYS—63

Akaka	Dorgan	Lugar
Baucus	Durbin	Mikulski
Bennett	Feingold	Moseley-Braun
Biden	Feinstein	Moynihan
Bingaman	Ford	Murkowski
Boxer	Glenn	Murray
Breaux	Gorton	Reed
Bryan	Graham	Reid
Bumpers	Harkin	Robb
Burns	Inouye	Roberts
Byrd	Jeffords	Rockefeller
Campbell	Johnson	Roth
Chafee	Kennedy	Sarbanes
Cleland	Kerrey	Smith (OR)
Cochran	Kerry	Snowe
Conrad	Kohl	Specter
D'Amato	Landrieu	Stevens
Daschle	Lautenberg	Torricelli
DeWine	Leahy	Warner
Dodd	Levin	Wellstone
Domenici	Lieberman	Wyden

The PRESIDING OFFICER. On this vote the yeas are 37, the nays are 63. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas is recognized to offer an amendment on which there will be 2 minutes of debate equally divided.

The Senator from Arkansas.

AMENDMENT NO. 568

(Purpose: To prohibit the scoring, for budget purposes, of revenues associated with the sale of certain federal lands)

Mr. BUMPERS. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 568.

Mr. BUMPERS. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

''(f) BUDGETARY TREATMENT OF SALES OF CERTAIN FEDERAL LANDS.—The amounts realized from the sale or lease of lands or interests in lands which are part of the National Park System, the Forest Service System or the U.S. Fish and Wildlife refuge system shall not be scored with respect to the level of budget authority, outlays, or revenues.''

Mr. BUMPERS. Madam President, this amendment will prohibit the scoring of the sale of any lands from a national park or a national wildlife refuge or Forest Service lands.

To my colleagues, I want to say, I have witnessed over the past 10 years an irresistible urge on the part of some of my colleagues to dispose of some of the national treasures of this country, even suggesting a commission to determine which lands, which national parks, we can do without and sell.

This amendment is designed to do two things. No. 1, it is designed to discourage that by making it impossible to score the proceeds from a sale of national parks, Forest Service lands, or wildlife refuges in a reconciliation bill; and, No. 2, I want to say that I think it is a terrible practice. When I was Governor, I never allowed a one-time asset to be used in the budget.

Finally, to those who would say, well, this will keep us from leasing ANWR, that is simply not true. You can lease ANWR. You can lease anything, wildlife refuge or otherwise, but you cannot use it as an asset in the reconciliation bill.

I yield back such time as I may have.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Madam President, fellow Senators, the bipartisan budget agreement and the Domenici-Lautenberg amendment revised the asset sale scoring rule. The new rule prohibits scoring asset sales that would lead to a financial loss to the Government.

Much work has gone into this. Democrats and Republicans have worked on it. Senator BUMPERS wants to make a special exception for public lands.

Let me suggest the awesome situation that he has talked about never has happened in the U.S. Senate. We have never tried to sell national parks. We have never had any commission to sell national parks. Somebody in the House had a wild idea, and, frankly, that is never going to happen here.

As a matter of fact, this amendment, what we have already adopted, says that if there is any financial loss to the Government, you cannot count an asset sale.

I make a point of order against the Bumpers amendment. It violates section 313 of the Budget Act.

Mr. BUMPERS. Madam President, I move to waive the Budget Act for Senate consideration of my amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 48, nays 52, as follows:

[Rollcall Vote No. 143 Leg.]

YEAS—48

Akaka	Ford	Levin
Biden	Glenn	Lieberman
Bingaman	Graham	Mikulski
Boxer	Gregg	Moseley-Braun
Bryan	Harkin	Moynihan
Bumpers	Hollings	Murray
Byrd	Inouye	Reed
Chafee	Jeffords	Reid
Cleland	Johnson	Robb
Collins	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Snowe
Dodd	Kohl	Specter
Dorgan	Landrieu	Torricelli
Durbin	Lautenberg	Wellstone
Feingold	Leahy	Wyden

NAYS—52

Abraham	Faircloth	McCain
Allard	Feinstein	McConnell
Ashcroft	Frist	Murkowski
Baucus	Gorton	Nickles
Bennett	Gramm	Roberts
Bond	Grams	Roth
Breaux	Grassley	Santorum
Brownback	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Coats	Hutchinson	Smith (OR)
Cochran	Hutchison	Stevens
Coverdell	Inhofe	Thomas
Craig	Kempthorne	Thompson
D'Amato	Kyl	Thurmond
DeWine	Lott	Warner
Domenici	Lugar	
Enzi	Mack	

The PRESIDING OFFICER. On this question, the yeas are 47, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected, the point of order is sustained, and the amendment falls.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 569

(Purpose: To modify the pay-as-you-go requirement of the budget process to prohibit the use of tax increases to pay for mandatory spending increases)

The PRESIDING OFFICER. Under the previous order, the Senator from Idaho is recognized to offer an amendment on which there will be 2 minutes of debate equally divided.

Mr. CRAIG. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. ENZI). The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 569.

Mr. CRAIG. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . RESTRICTION ON THE USE OF TAX INCREASES.

(a) IN GENERAL.—In the Senate, for purposes of section 202 of House Concurrent Resolution 67 (104th Congress), it shall not be in order to consider any bill, joint resolution, amendment, motion, or conference report that provides an increase in direct spending offset by an increase in receipts.

(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the concurrent resolution, bill, or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of direct spending and receipts for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

Mr. CRAIG. Mr. President, my amendment would change the current pay-go procedures by establishing a 60-vote point of order against using tax increases to pay for new mandatory spending increases. My amendment is the first step toward reining in the uncontrolled costs of mandatory spending programs that I believe threaten our fiscal future. This budget should have gone further in entitlement reform and it should not have added more entitlement spending, but there is one reform that should be made definitely, and that is to cause no further harm.

My amendment will not affect a single current beneficiary of a single existing entitlement program. My amendment will not affect a single person who will qualify to become a beneficiary under the current requirements of any existing entitlement program. My amendment will not prevent the creation of a new entitlement program if there is a true need for the program. It simply will require that such a need be truly demonstrated.

My amendment will not prevent a tax increase that is used for deficit reduction.

What my amendment will do is put an end to the fiction that tax increases are capable of offsetting the cost of additional mandatory spending.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I rise to oppose the Craig amendment. The amendment would change the pay-go system and mean that we could not provide for health insurance to children by closing unnecessary tax loopholes. You heard it from the Senator directly.

This is outrageous. It would undermine our efforts to ensure that all of the 10 million children who lack health coverage in this country can have it. There are already budget rules that limit the use of savings that come from tax loopholes. This amendment would go much farther and make it tougher to invest in children's health programs. If you vote for the Craig amendment, you are voting to protect tax loopholes. If you vote against it, you are voting to help children obtain health insurance in the future.

The PRESIDING OFFICER. All time is expired.

Mr. LAUTENBERG. Mr. President, I raise a point of order that the pending amendment is extraneous and violates section 313(b)(1)(A) of the Congressional Budget Act.

Mr. CRAIG. Mr. President, under section 904 of the Budget Act, I move to waive the point of order against the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a such second.

The yeas and nays were ordinary had.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 42, nays 58, as follows:

[Rollcall Vote No. 144 Leg.]

YEAS—42

Abraham	Faircloth	Inhofe
Allard	Frist	Kempthorne
Ashcroft	Gramm	Kyl
Bennett	Grams	Lott
Brownback	Grassley	Mack
Campbell	Gregg	McCain
Coats	Hagel	McConnell
Coverdell	Hatch	Murkowski
Craig	Helms	Nickles
D'Amato	Hutchinson	Roberts
Enzi	Hutchison	Roth

Santorum	Smith (NH)	Thompson
Sessions	Stevens	Thurmond
Shelby	Thomas	Warner

NAYS—58

Akaka	Dorgan	Levin
Baucus	Durbin	Lieberman
Biden	Feingold	Lugar
Bingaman	Feinstein	Mikulski
Bond	Ford	Moseley-Braun
Boxer	Glenn	Moynihan
Breaux	Gorton	Murray
Bryan	Graham	Reed
Bumpers	Harkin	Reid
Burns	Hollings	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Sarbanes
Cleland	Johnson	Smith (OR)
Cochran	Kennedy	Snowe
Collins	Kerrey	Specter
Conrad	Kerry	Torricelli
Daschle	Kohl	Wellstone
DeWine	Landrieu	Wyden
Dodd	Lautenberg	
Domenici	Leahy	

The PRESIDING OFFICER. On this vote, the yeas are 42, the nays are 58. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained, and the amendment fails.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 570

(Purpose: To establish procedures to ensure a balanced Federal budget by fiscal year 2002)

The PRESIDING OFFICER. Under the previous order, the Senator from Kansas is recognized to offer an amendment on which there are 2 minutes of debate equally divided.

Mr. BROWNBACK. Mr. President, I have an amendment at the desk in the second-degree.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK], for himself, Mr. KOHL, and Mr. MCCAIN, proposes an amendment numbered 570.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE —BUDGET CONTROL

SEC. 01. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the ''Bipartisan Budget Enforcement Act of 1997''.

(b) PURPOSE.—The purpose of this title is—

(1) to ensure a balanced Federal budget by fiscal year 2002;

(2) to ensure that the Bipartisan Budget Agreement is implemented; and

(3) to create a mechanism to monitor total costs of direct spending programs, and, in the event that actual or projected costs exceed targeted levels, to require the President and Congress to address adjustments in direct spending.

SEC.—02. ESTABLISHMENT OF DIRECT SPENDING TARGETS.

(a) IN GENERAL.—The initial direct spending targets for each of fiscal years 1998 through 2002 shall equal total outlays for all direct spending except net interest as determined by the Director of the Office of Management and Budget (hereinafter referred to in this title as the ''Director'') under subsection (b).

(b) INITIAL REPORT BY DIRECTOR.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this title, the Director shall submit a report to Congress setting forth projected direct spending targets for each of fiscal years 1998 through 2002.

(2) PROJECTIONS AND ASSUMPTIONS.—The Director's projections shall be based on legislation enacted as of 5 days before the report is submitted under paragraph (1). The Director shall use the same economic and technical assumption used in preparing the concurrent resolution on the budget for fiscal year 1998 (H.Con.Res. 84).

SEC.—03. ANNUAL REVIEW OF DIRECT SPENDING AND RECEIPTS BY PRESIDENT.

As part of each budget submitted under section 1105(a) of title 31, United States Code, the President shall provide an annual review of direct spending and receipts, which shall include—

(1) information on total outlays for programs covered by the direct spending targets, including actual outlays for the prior fiscal year and projected outlays for the current fiscal year and the 5 succeeding fiscal years; and

(2) information on the major categories of Federal receipts, including a comparison between the levels of those receipts and the levels projected as of the date of enactment of this title.

SEC.—04. SPECIAL DIRECT SPENDING MESSAGE BY PRESIDENT.

(a) TRIGGER.—If the information submitted by the President under section——03 indicates—

(1) that actual outlays for direct spending in the prior fiscal year exceeded the applicable direct spending target; or

(2) that outlays for direct spending for the current or budget year are projected to exceed the applicable direct spending targets,

the President shall include in his budget a special direct spending message meeting the requirements of subsection (b).

(b) CONTENTS.—

(1) INCLUSIONS.—The special direct spending message shall include—

(A) an analysis of the variance in direct spending over the direct spending targets; and

(B) the President's recommendations for addressing the direct spending overages, if any, in the prior, current, or budget year.

(2) ADDITIONAL MATTERS.—The President's recommendations may consist of any of the following:

(A) Proposed legislative changes to recoup or eliminate the overage for the prior, current, and budget years in the current year, the budget year, and the 4 outyears.

(B) Proposed legislative changes to recoup or eliminate part of the overage for the prior, current, and budget year in the current year, the budget year, and the 4 outyears, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, only some of the overage should be recouped or eliminated by outlay reductions or revenue increases, or both.

(C) A proposal to make no legislative changes to recoup or eliminate any overage, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, no legislative changes are warranted.

(c) PROPOSED SPECIAL DIRECT SPENDING RESOLUTION.—If the President recommends reductions consistent with subsection (b)(2)(A) or (B), the special direct spending message shall include the text of a special direct spending resolution implementing the President's recommendations through reconciliation directives instructing the appropriate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions. If the President recommends no reductions pursuant to (b)(2)(C), the special direct spending message shall include the text of a special resolution concurring in the President's recommendation of no legislative action.

SEC. . REQUIRED RESPONSE BY CONGRESS.

(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget unless that concurrent resolution fully addresses the entirety of any overage contained in the applicable report of the President under section ____04 through reconciliation directives.

(b) WAIVER AND SUSPENSION.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. This section shall be subject to the provisions of section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SEC. 06. RELATIONSHIP TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT.

Reductions in outlays or increases in receipts resulting from legislation reported pursuant to section ____05 shall not be taken into account for purposes of any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 07. ESTIMATING MARGIN.

For any fiscal year for which the overage is less than one-half of 1 percent of the direct spending target for that year, the procedures set forth in sections ____04 and ____05 shall not apply.

SEC. 08. EFFECTIVE DATE.

This title shall apply to direct spending targets for fiscal years 1998 through 2002 and shall expire at the end of fiscal year 2002.

Mr. BROWNBACK. Mr. President, Senator KOHL and I have offered this amendment. It is a very, very simple amendment. It just says if we are going to break the spending caps on this bill, on this budget agreement that we've told the American people is going to balance the budget, if we're going to break the spending limits on it, we have to vote on it. And we have to vote and pass that by a 60-vote margin. That's it.

The President has to say how he is going to get us to a balanced budget. If we're going to break that cap, he has to say how he is going to get us to a balanced budget; if we're going to break that spending cap, he has to say where we're going to make the spending cuts, and we have to vote if we are going to break it.

I think this is the least we can do for the American people. It says, ''Folks,

we meant it when we said we were going to balance the budget. We meant it when we said we're going to balance it by the year 2002.'' And if we are going to break it, we've got to break it by a 60-vote margin.

I yield the remainder of my time to Senator KOHL.

Mr. KOHL. Thank you.

Mr. President, I also am a supporter of this amendment. What it simply says is that we are going to do what we set out to do, which is to balance the budget, and, if we go over it in any year, then we are going to have to decide how we are going to reduce that spending to be sure we stay on target to get the budget balanced over the next several years. That is all this does. It is not a sequester. Nobody should fear that. But it is simply an enforcement mechanism which is necessary.

Mr. LAUTENBERG. Mr. President, this amendment is a fast-track ticket to deep cuts in Medicare and Medicaid. It would essentially create a cap for these and other essential mandatory programs like the Medicare and Medicaid.

Mr. President, we ought not punish the people who are on Medicaid or Medicare just because these programs grow faster than a particular rate. Sometimes growth in these programs could be good.

For example, the first reconciliation bill includes money to recruit 3 million uninsured Medicaid-eligible children to sign up for the program. If this happens, obviously Medicaid spending is going to increase. But the question is, What do we want to do? Do we want to take care of those kids or don't we? This would not be a good reason to cut the program. This is a dangerous gimmick. We can balance the budget without it. Furthermore, we ought not accept an amendment that could force quick, drastic cuts in Medicare and Medicaid.

I urge my colleagues to oppose this amendment to protect Medicare and Medicaid.

Mr. President, I raise a point of order that the pending amendment is extraneous and violates section 313(b)(1)(A) of the Congressional Budget Act.

Mr. BROWNBACK. Mr. President, I make a motion to waive the Budget Act with respect to my amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second question?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question occurs on the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted— yeas 57, nays 43, as follows:

[Rollcall Vote No. 145 Leg.]

YEAS—57

Abraham	Frist	McCain
Allard	Gorton	McConnell
Ashcroft	Gramm	Murkowski
Bennett	Grams	Nickles
Bond	Grassley	Robb
Brownback	Gregg	Roberts
Burns	Hagel	Roth
Campbell	Hatch	Santorum
Chafee	Helms	Sessions
Coats	Hutchinson	Shelby
Cochran	Hutchison	Smith (NH)
Collins	Inhofe	Smith (OR)
Coverdell	Jeffords	Snowe
Craig	Kempthorne	Specter
D'Amato	Kohl	Stevens
DeWine	Kyl	Thomas
Domenici	Lott	Thompson
Enzi	Lugar	Thurmond
Faircloth	Mack	Warner

NAYS—43

Akaka	Feingold	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Breaux	Harkin	Murray
Bryan	Hollings	Reed
Bumpers	Inouye	Reid
Byrd	Johnson	Rockefeller
Cleland	Kennedy	Sarbanes
Conrad	Kerrey	Torricelli
Daschle	Kerry	Wellstone
Dodd	Landrieu	Wyden
Dorgan	Lautenberg	
Durbin	Leahy	

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment falls.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 571

(Purpose: To establish an enforcement mechanism in the Senate to ensure a balanced budget beginning with fiscal year 2002 and to require the President to submit balanced budgets)

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized to offer an amendment on which there is 2 minutes of debate equally divided.

May we have order in the Senate so we may proceed with the business of the day.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for himself, Mr. CONRAD, Mr. ABRAHAM, and Mr. SESSIONS, proposes an amendment numbered 571.

Mr. FRIST. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the ____, add the following:

SEC. . ENFORCEMENT OF BALANCED BUDGET.

(a) IN THE SENATE.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''ENFORCEMENT OF BALANCED BUDGET IN THE SENATE

''SEC. 315. (a) POINT OF ORDER.—It shall not be in order in the Senate to consider any resolution or bill (or amendment, motion, or conference report on such resolution or bill) that provides or would cause a deficit (as determined for purposes of the Bipartisan Budget Agreement of May 16, 1997) for fiscal year 2002 or any fiscal year thereafter.

''(b) WAIVER AND SUSPENSION.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. This section shall be subject to the provisions of section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985.

''(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

''(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.''.

(b) PRESIDENT'S BUDGET.—Section 1105(f) of title 31, United States Code, is amended by adding at the end the following: ''The budget shall also be prepared in a manner that does not cause a deficit for fiscal year 2002 or any fiscal year thereafter.''.

Mr. FRIST. Mr. President, this amendment, submitted on behalf of Senators CONRAD, SESSIONS, ABRAHAM, and myself evolves from a simple principle, that is, once we balance the budget, which we will do by 2002, let us keep it in balance thereafter. The amendment has two key provisions. No. 1, establishes a 60-vote point of order against any bill or resolution that will increase the deficit in the year 2002 or any year thereafter, and, No. 2, requires the President to submit a balanced budget every year in 2002 and thereafter.

The amendment does provide exceptions in the event of war or recession. The amendment is consistent with the bipartisan balanced budget agreement.

I reserve the remainder of my time.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I am strongly opposed to this amendment. It creates a 60-vote point of order against any budget resolution that shows a unified deficit after the year 2002. We are all committed to protecting against the rising deficit. This amendment, however, means that next year even a modest change in CBO's long-term economic forecast could trigger the need for deep and hurtful cuts. It would be outrageous to cut Medicare or Social Security just because CBO changes its guess about what the economy will look like in 5 years. CBO cannot even predict what the deficit is going to look like in the next 5 months, never mind 5 years. Their recent record is absolutely abysmal. This amendment

also requires that Social Security surpluses be used in calculating the deficit and could make it impossible to use those surpluses in the future to pay for Social Security benefits of retiring baby boomers.

The PRESIDING OFFICER. The Senator's time has expired

Mr. LAUTENBERG. I urge my colleagues to oppose this dangerous and radical amendment and I raise a point of order——

The PRESIDING OFFICER. The point of order cannot be raised until the Senator's time has been used up.

The Senator from Tennessee.

Mr. FRIST. Mr. President, I yield to Senator DOMENICI.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I think this is a very good idea. As a matter of fact, if you look carefully at the agreement we entered into with the White House, it clearly says we are not supposed to do anything that takes the budget out of balance in the year 2002 and beyond. I think perhaps the Senator is just helping us try to enforce that agreement.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LAUTENBERG. I now, Mr. President, raise the point of order that the amendment violates section 313(b)(1)(A) of the Congressional Budget Act.

Mr. FRIST. I move to waive the Budget Act with respect to my amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The yeas and nays resulted—yeas 59, nays 41, as follows:

[Rollcall Vote No. 146 Leg.]

YEAS—59

Abraham	Feingold	McCain
Allard	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Robb
Brownback	Grassley	Roberts
Burns	Gregg	Roth
Campbell	Hagel	Santorum
Chafee	Hatch	Sessions
Coats	Helms	Shelby
Cochran	Hutchinson	Smith (NH)
Collins	Hutchison	Smith (OR)
Conrad	Inhofe	Snowe
Coverdell	Jeffords	Specter
Craig	Kempthorne	Stevens
D'Amato	Kohl	Thomas
DeWine	Kyl	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Warner
Faircloth	Mack	

NAYS—41

Akaka	Byrd	Glenn
Baucus	Cleland	Graham
Biden	Daschle	Harkin
Bingaman	Dodd	Hollings
Boxer	Dorgan	Inouye
Breaux	Durbin	Johnson
Bryan	Feinstein	Kennedy
Bumpers	Ford	Kerrey
Kerry	Mikulski	Rockefeller
Landrieu	Moseley-Braun	Sarbanes
Lautenberg	Moynihan	Torricelli
Leahy	Murray	Wellstone
Levin	Reed	Wyden
Lieberman	Reid	

The PRESIDING OFFICER. On this vote the yeas are 59, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 538

(Purpose: To ensure that future revenue windfalls to the federal Treasury are reserved for tax or deficit reduction—not additional spending)

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is recognized to offer an amendment on which there is 2 minutes of debate, equally divided. We need to have order in the Senate. The Senate will please come to order.

Mr. ABRAHAM. Mr. President, I call up my amendment No. 538.

The OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. ABRAHAM], for himself, Mr. BROWNBACK, Mr. KYL, Mr. SESSIONS, Mr. ENZI, Mr. INHOFE, and Mr. GRAMS, proposes an amendment numbered 538.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . ECONOMIC GROWTH PROTECTION.

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) is amended by adding at the end the following:

''(f) ECONOMIC GROWTH PROTECTION.—

''(1) ESTIMATE.—OMB shall, for any amount by which revenues for a budget year and any out-years through fiscal year 2002 exceed the revenue target absent growth, estimate the excess and include such estimate as a separate entry in the report prepared pursuant to subsection (d) at the same time as the OMB sequestration preview report is issued.

''(2) INCLUSION IN SCORECARD.—OMB shall include the amount of any change in revenues determined pursuant to paragraph (1) as a deficit decrease under this part in the estimates and reports required by subsection (b) of section 254 unless such amount is offset by legislation enacted in compliance with paragraph (3).

''(3) USE OF ADJUSTMENT.—An amount not to exceed the amount of deficit decrease determined under paragraph (2) may be offset by legislation decreasing revenues.

''(4) REVENUE TARGET ABSENT GROWTH.—For purposes of this subsection, the revenue target absent growth is—

''(A) for fiscal year 1998, $1,601,800,000,000;

''(B) for fiscal year 1999, $1,664,200,000,000;

''(C) for fiscal year 2000, $1,728,100,000,000;

''(D) for fiscal year 2001, $1,805,100,000,000; and

''(E) for fiscal year 2002, $1,890,400,000,000.''

SEC. . CONGRESSIONAL PAY-AS-YOU-GO

Legislation decreasing revenues in compliance with section 252(f)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985, as added by section , shall be considered to be in order for purposes of section 202 of House Concurrent Resolution 67 (104th Congress).

Mr. ABRAHAM. This amendment is offered on behalf of myself, Senator BROWNBACK, Senator ENZI, Senator INHOFE, Senator GRAMS, and Senator SESSIONS.

At this time our Nation's tax rate is the highest percentage of the national income it has ever been in history. As we all know in this Chamber, our national debt is too high. Recently it was discovered by the Congressional Budget Office that they had underestimated the revenues coming into our system by some $225 billion, and we promptly spent a very substantial amount of those dollars on new Federal programs.

This amendment is very simple. It says if the revenues which are received by the Treasury in the next 5 years exceed those that are projected, we ought to have a lockbox and those dollars ought to either be spent on tax cuts or on reducing the deficit, and not new Federal spending.

Mr. President, a coalition of taxpayer groups including the National Taxpayer's Union, the National Tax Limitation Committee, Empower America, Americans for Hope, Growth and Opportunity, and others have endorsed my bill to require that any tax revenue windfall be used for tax cuts or deficit reduction, not new government spending. I ask unanimous consent that a statement by Al Cors, Jr., of the National Taxpayer's Union be entered in the RECORD immediately following my remarks:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL TAXPAYERS UNION,
Alexandria, VA, June 27, 1997.

Any amendment that would dedicate ''windfall'' revenue to new spending, rather than to additional tax relief and/or deficit reduction, will be scored heavily as an antitaxpayer amendment on our annual NTU Rating of Congress.

AL CORS, Jr.,
Director, Government Relations,
National Taxpayers Union.

——

THE NATIONAL
TAX-LIMITATION COMMITTEE,
Washington, DC, June 25, 1997.

PRO-TAXPAYER GROUPS URGE CONGRESS TO ACT NOW ON FUTURE TAX CUTS

WASHINGTON, DC.—The National Tax-Limitation Committee joined by Empower America, National Taxpayers Union, Americans for Hope, Growth, and Opportunity, Citizens for a Sound Economy, and Citizens for Budget Reform sent a letter to Congress urging action in the budget legislation to reserve future revenue windfalls for tax cuts for all Americans. The text of the letter follows:

You have a great opportunity to act right now to secure the first down-payment on further tax relief for the American people. You can do this simply by enacting a firm rule during budget reconciliation that sets aside, or ''sequesters'', any revenues above the FY 1998 budget resolution projections for further tax relief for all Americans. While some of these ''windfall'' revenues might possibly be

applied to faster deficit reduction, it is vitally important that the bulk of them go directly to taxpayers, and never get within the grasp of the big-government spending machine.

There are a lot of good ideas floating around on how to do this, but the key is to look out for the interests of the taxpayer first, last, and always. We have plenty of time to think about the best ways to provide for future debt repayment, additional tax cuts, and major tax reform in the next millenium. But our immediate and urgent goal must be to unambiguously lock in any ''bonus'' revenues to help the hard-pressed taxpayer.

We are concerned that some proposals being considered merely put the taxpayer a distant third, delay their effects for many years, and create a built-in bias towards higher taxes, not lower (such as requiring revenue growth to outstrip spending growth on a year-to-year basis). The last thing the Federal government needs is yet another incentive to raise taxes. Furthermore attempting to build up special trust funds within the government rather than provide tax relief merely gives those ''trust'' accounts protected status in the fiscal policy debate—not sound fiscal policy, and certainly not protaxpayer.

The pending tax bill represents an honorable and diligent effort to give taxpayers a first installment of tax relief, and start moving right now to ratchet down the percent of family income consumed by taxes. We know that this budget process has been a difficult one, and we want to work with you as it continues to unfold, particularly in what promises to be a very tough ''end-game'' negotiation. We want the best possible deal for the American taxpayer, and we want to ensure that this is a true ''taxpayer relief act''. Seizing this unique opportunity to point the way to future tax relief is one of the best possible ways to do that.

Jack Kemp, Empower America; Lewis K. Uhler, National Tax Limitation Committee; David Keating, National Taxpayers Union; Steve Forbes, Americans for Hope, Growth, and Opportunity; Matt Kibbe, Citizens for a Sound Economy; Harrison Fox, Citizens for Budget Reform.

Mr. ABRAHAM. I yield to the Senator from Minnesota to comment further on this legislation.

Mr. GRAMS. Mr. President, I rise to strongly support the amendment offered by Senator ABRAHAM. After all, if the revenues do increase, it is going to come because of the hard work of the American people. While spending levels on Federal programs have already been set, it only makes sense, if the revenues increase, they should go either to tax relief to those hard-working American families or to deficit reduction. They should not go to enlarge the size of Government. The era of big Government is far from over. This amendment would help protect future taxpayers.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that my op-ed article in today's Journal of Commerce on the economic growth dividend protection amendment be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Journal of Commerce, June 27, 1997]

AMERICA NEEDS A TAX CUT

(By Spencer Abraham)

It is always easier to spend other people's money than to give it back, and that's the lesson of the budget agreement between Congress and the Clinton administration. It is also the major obstacle confronting those of us who advocate reducing the record tax burden shouldered by American taxpayers.

After four months of negotiations, and literally just hours before a self-imposed deadline, the Congressional Budget Office provided budget negotiators with a gift of sorts. It found that the federal deficit in 1997 would be much less than previously reported. Instead of $112 billion, the deficit would be closer to $67 billion. Moreover, the CBO suggested that this $45 billion windfall would extend over the next five years, reducing the total deficit by $245 billion.

This ''windfall'' is a mixed blessing. The economy's continued strong performance means more jobs and opportunities for Americans—as well as additional revenues to the government. But it brought renewed administration demands for even higher levels of spending in 1998 and beyond. Apparently, all sorts of spending issues that had previously been closed were reopened following the CBO's surprise announcement.

One issue that remained closed, however, was that of tax cuts. While spending for numerous programs was increased following the CBO's announcement, the net tax cut remained fixed at $85 billion. The result was a budget plan that would increase federal spending by 17 percent over the next five years, yet reduce tax collections by less than 1 percent of the total tax burden over that time.

Along with a number of my colleagues, I have proposed legislation to improve this deal. It would reserve any unexpected increase in tax revenues for tax cuts and/or deficit reduction. To the extent tax revenues under this budget agreement exceed projections by the Joint Committee on Taxation, those revenues should go to the people, not additional government spending.

This is not an idle suggestion. For years, tax cut advocates like me have argued that federal revenue estimates ignore the dynamic effects that pro-growth tax reforms have on the economy and the budget. Incentives for economic growth and job creation—such as reduced capital gains taxes and increased allowable IRAs—will bring higher economic growth over the next five years and increase, not decrease, revenues to the federal treasury.

History is on our side in this debate. For example, between 1978 and 1985, while the top marginal rate on capital gains was cut almost in half—from 35% to 20%—total annual federal receipts from the tax almost tripled. They rose from $9.1 billion to $26.5 billion annually. Conversely, when Congress raised the capital gains rate in 1986, revenues from that tax actually fell.

Economists across the board predict that cutting the capital gains rate will bring a revenue windfall for the Treasury. Economic expert Larry Kudlow predicts that another broad capital gains tax cut could produce a $90 billion tax dividend next year, assuming only 15% of investors realize their stock market gains from three years ago. These windfalls should be given back to the taxpayers.

As John F. Kennedy noted, ''It is a paradoxical truth that tax rates are too high today and tax revenues are too low, and the soundest way to raise the revenues in the long run is to cut taxes now.''

Why do Americans need a tax cut? The President's own economists report that the tax burden on Americans is the highest ever—31.7%. According to the National Taxpayer Union, the average American family now pays almost 40% of its income in state, local and federal taxes. And while we address the tax burden in a small, incremental way with this budget resolution. I believe we need to tilt the playing field away from more spending and toward more tax reduction.

How does this proposal work? First, it locks the expected revenue estimates into law. Then it requires the Office of Management and Budget to compare its new revenue estimates each year to those included in the agreement. If the budget agreement estimates are accurate, nothing happens. But if the progrowth tax cuts we adopt later this year result in higher than expected revenues, those revenues are reserved for tax cut legislation—legislation which is exempt from all the budget points of order and other obstacles that currently stand between American families and tax cuts. If Congress chooses not to reduce revenues, then the windfall is reserved for deficit reduction.

The Senate gave this proposal its preliminary approval on May 23 by voting for my Sense of the Senate amendment to the budget. We should now put into effect the rules that will help make tax cuts a reality.

The budget agreement takes a small, $85 billion step down the long road toward reducing the tax burden on American families. This cut should be just the beginning.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, this amendment says that if revenues exceed current projections, all the savings can only be plowed into more tax breaks; if you have a surplus, back into the tax breaks, not defense, not education, only more tax breaks. Even if the deficit were actually going up due to increased spending, we would still be able to use all unexpected revenues only for more tax breaks.

That is fiscally irresponsible. It removes power and flexibility from the congressional majority and it is terrible policy. I urge my colleagues to oppose the amendment.

Mr. President, I raise a point of order that the pending amendment is extraneous and violates section 313(b)(1)(A) of the Congressional Budget Act.

Mr. ABRAHAM. Mr. President, I move to waive the Budget Act with respect to this amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted, yeas 53, nays 47, as follows:

[Rollcall Vote No. 147 Leg.]

YEAS—53

Abraham	Brownback	Collins
Allard	Burns	Coverdell
Ashcroft	Campbell	Craig
Bennett	Coats	D'Amato
Bond	Cochran	DeWine

Domenici	Inhofe	Santorum
Enzi	Jeffords	Sessions
Faircloth	Kempthorne	Shelby
Frist	Kyl	Smith (NH)
Gramm	Lott	Smith (OR)
Grams	Lugar	Snowe
Grassley	Mack	Specter
Gregg	McCain	Stevens
Hagel	McConnell	Thomas
Hatch	Murkowski	Thompson
Helms	Nickles	Thurmond
Hutchinson	Roberts	Warner
Hutchison	Roth	

NAYS—47

Akaka	Feingold	Leahy
Baucus	Feinstein	Levin
Biden	Ford	Lieberman
Bingaman	Glenn	Mikulski
Boxer	Gorton	Moseley-Braun
Breaux	Graham	Moynihan
Bryan	Harkin	Murray
Bumpers	Hollings	Reed
Byrd	Inouye	Reid
Chafee	Johnson	Robb
Cleland	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Torricelli
Dodd	Kohl	Wellstone
Dorgan	Landrieu	Wyden
Durbin	Lautenberg	

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 572

(Purpose: To extend the number of hours for debate on a reconciliation bill and make other improvements)

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized to offer an amendment on which there is 2 minutes of debate equally divided.

The Senator from West Virginia.

Mr. BYRD. I thank the Chair. I send to the desk an amendment, and I ask that the amendment be read. I hope that Senators will pay close attention.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 572.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . DEBATE ON A RECONCILIATION BILL.

Section 310(e)(2) of the Congressional Budget Act of 1974 is amended to read as follows:

''(2) For purposes of consideration of any reconciliation bill reported under subsection (b)—

''(A) debate, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 30 hours;

''(B) time on the bill may only be yielded back by consent and a motion to further limit debate shall be debatable with debate limited to ½ hour equally divided;

''(C) time on amendments shall be limited to 30 minutes to be equally divided in the usual form and on any second degree amendment or motion to 20 minutes to be equally divided in the usual form, except that after the 15th hour of consideration of a bill, time on all amendments or motions shall be limited to 20 minutes;

''(D) no first degree amendment may be proposed after the 15th hour of consideration of a bill unless it has been submitted to the Journal Clerk prior to the expiration of the 15th hour;

''(E) no second degree amendment may be proposed after the 20th hour of consideration of a bill unless it has been submitted to the Journal Clerk prior to the expiration of the 20th hour; and

''(F) After no more than thirty hours of consideration of the measure, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins.''.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the distinguished Senator from New York, Mr. MOYNIHAN, wrote a book titled ''Pandemonium.'' Milton, in ''Paradise Lost,'' designated the Palace of Satan as pandemonium. Mr. President, what we have seen going on here is pandemonium, and in light of what I have just said, Senators can draw their own conclusion as to what I mean by that word.

This is a very important amendment to the reconciliation process. It extends the overall time from 20 hours to 30 hours. It reduces the time on any amendment in the first degree to 30 minutes. It reduces the time on any second-degree amendment to 20 minutes. May I proceed for an additional 2 minutes?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. After the first 15 hours have expired, time on amendments in the first degree and in the second degree will be limited to 20 minutes each. The amendment provides for 30 minutes equally divided for debate on a motion to reduce the time, which can be done now without any debate. It requires unanimous consent for managers of a reconciliation measure to yield back any time. At the present time, they may yield time back without unanimous consent.

Now comes probably the most important provision in the proposal. If Senators will turn to page 19 in their rule books. I will read the language from the cloture rule:

After no more than thirty hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table. . .

Mr. DOMENICI. May we have order, Mr. President?

Mr. BYRD. Mr. President, I ask unanimous consent that I may again read what I have just read, without the time's being charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I repeat:

After no more than thirty hours of consideration—

I am reading from the present cloture rule—

After no more than thirty hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof—

Meaning the final disposition of the reconciliation bill—

to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins.

Therefore, Mr. President, we do away with this situation in which pandemonium reigns supreme and where scores of amendments remain to be acted upon after the expiration of the time on the reconciliation bill and people want to call those up—and they have a right to call them up and get a vote thereon.

This amendment encourages Senators, if they want time to debate their amendments, to call them up at the beginning of the debate, call them up early, when they will have time to explain their amendments. But when we reach that final 30th hour, under this amendment language, which is already tried and true—it is in the cloture rule—we close all debate, all voting on amendments to the reconciliation bill with the exception of any amendment in the first degree and any amendment in the second degree which may be then pending. That is it. No more of this vote-o-rama.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, we have been discussing this proposal with the distinguished Senator from West Virginia, ''we'' being Senator LOTT and others. And I assume Senator LOTT will speak in a moment to it however long he would like.

But I say to the Senate, and as long as Senator BYRD understands that we take this to conference with the idea that we will have to make sure—and I think he would agree—that it deserves some careful consideration.

I had one thought that came to my mind, I say to Senator BYRD, as you proposed it. I was talking to Senator GRAMM about it. I guess I am concerned that there might be a controversial amendment that is well-known that by design could be precluded from ever getting offered. And I think we ought to make sure that cannot happen. I do not know how to do

that. I do not propose that this is not a valid and good approach. But I do think that is an interesting issue. I was just speaking with Senator GRAMM a moment ago.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I ask unanimous consent for one additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I think there would have to be a lot of getting together of both sides of the aisle to preclude that amendment from coming up, but it might happen. So from my standpoint, I say to Senators, I think this is a dramatic improvement, provided that the Senator understands that we have to look at it carefully if it is accepted here today.

Mr. BYRD. I do understand. I hope that the Members who go to conference with the House will try to make it clear to the House that we Senators expect to decide on the amendments and the rules of the Senate.

Mr. MOYNIHAN. Yes, sir.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, I yield myself leader time so I may speak briefly on this. It will be briefly.

I have been talking to Senator DASCHLE about this and working with Senator BYRD. I think we had a good start last night on how to address this problem, and it has been improved today. I think we are close to having something that would really make this process fairer and better.

I suggest that we accept this on a voice vote, and we go to conference with it and continue to make sure we have thought through every possible exigency of this change. I think it is real progress. And I suggest we accept it and take it to conference.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I will be very brief with my leader time.

I congratulate the Senator from West Virginia. No one knows the process and the rules better than he does. And he has worked with all of us in an effort to try to accommodate the concerns that we have raised over the last couple of days. He has done that. This may not be the final product, but it puts us in a position to achieve a final product.

I hope that we can take the advice and recommendation of the majority leader, pass it on a voice vote, and allow this process to continue.

Mr. McCAIN. I object.

The PRESIDING OFFICER. There is an objection.

Mr. McCAIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 92, nays 8, as follows:

[Rollcall Vote No. 148 Leg.]

YEAS—92

Abraham	Feinstein	Lott
Akaka	Ford	Lugar
Baucus	Frist	Mack
Bennett	Glenn	McConnell
Biden	Gorton	Mikulski
Bingaman	Graham	Moseley-Braun
Bond	Grams	Moynihan
Boxer	Grassley	Murkowski
Breaux	Gregg	Murray
Bryan	Hagel	Nickles
Bumpers	Harkin	Reed
Burns	Hatch	Reid
Byrd	Helms	Robb
Campbell	Hollings	Roberts
Chafee	Hutchinson	Rockefeller
Cleland	Hutchison	Roth
Coats	Inhofe	Sarbanes
Cochran	Inouye	Sessions
Collins	Jeffords	Shelby
Conrad	Johnson	Smith (NH)
Coverdell	Kempthorne	Smith (OR)
D'Amato	Kennedy	Snowe
Daschle	Kerrey	Specter
DeWine	Kerry	Stevens
Dodd	Kohl	Thomas
Domenici	Kyl	Thompson
Dorgan	Landrieu	Thurmond
Durbin	Lautenberg	Torricelli
Enzi	Leahy	Warner
Faircloth	Levin	Wyden
Feingold	Lieberman	

NAYS—8

Allard	Craig	Santorum
Ashcroft	Gramm	Wellstone
Brownback	McCain	

The amendment (No. 572) was agreed to.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 522, AS MODIFIED

(Purpose: To provide for a trust fund for District of Columbia school renovations)

Mr. ROTH. Mr. President, I ask that the Senate resume consideration of Jeffords amendment No. 522. On behalf of the Senator from Vermont, I send a modification to the desk which we are prepared to accept.

The PRESIDING OFFICER. The regular order is the recognition of the Senator from Massachusetts. Is there objection?

Mr. NICKLES. That is not correct.

Parliamentary inquiry. I think the Senator sent an amendment from the Senator from Vermont. It has not been disposed of.

Mr. ROTH. The amendment deals with the subject of D.C. schools.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 522), as modified, is as follows:

On page 164, in the matter between lines 16 and 17, insert after the item relating to section 1400B the following:

''Sec. 1400C. Trust Fund for DC schools.''

On page 173, line 10, strike ''$75,000,000'' and insert ''$60,000,000''.

On page 174, strike lines 21 through 23, and insert:

''(a) EXCLUSION.—

''(1) IN GENERAL.—Gross income shall not include qualified capital gain from the sale or exchange of any DC asset held for more than 5 years.

''(2) SPECIAL 10 PERCENT RATE FOR DC ASSETS ACQUIRED IN 1998.—

''(A) IN GENERAL.—In the case of any DC asset acquired during calendar year 1998—

''(i) paragraph (1) shall not apply to any qualified capital gain from the sale or exchange of such asset, and

''(ii) the qualified capital gain described in clause (i) shall be treated as adjusted net capital gain described in section 1(h)(1)(D) for the taxable year of the sale or exchange (and the amount under section 1(h)(1)(D)(i) for such taxable year shall be increased by the amount of such gain).

''(B) SPECIAL RULE.—For purposes of subparagraph (A), any DC asset the basis of which is determined in whole or in part by reference to the basis of an asset to which subparagraph (A) applies shall be treated as a DC asset acquired during calendar year 1998.

On page 181, between lines 5 and 6, insert the following:

''SEC. 1400C. TRUST FOR DC SCHOOLS.

''(a) CREATION OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for DC Schools', consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

''(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

''(1) IN GENERAL.—There are hereby appropriated to the Trust Fund for DC Schools amounts equivalent to the applicable percentage of revenues received in the Treasury from income taxes imposed by this chapter for any taxable year beginning after December 31, 1997, and before January 1, 2008, on individual taxpayers who are residents of the District of Columbia as of the last day of such taxable year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage which the Secretary determines necessary to result in $5,000,000 being appropriated to the Trust Fund under paragraph (1) for each of the calendar years 1998 through 2007.

''(3) TRANSFER OF AMOUNTS.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund for DC Schools on the basis of estimates made by the Secretary of the amounts referred to in such paragraph. 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 Trust Fund for DC Schools are hereby appropriated, and shall be available without fiscal year limitation, for payment by the Secretary of debt service on qualified DC school bonds.

''(2) QUALIFIED DC SCHOOL BONDS.—The term 'qualified DC school bonds' means bonds which—

''(A) are issued after March 31, 1998, by the District of Columbia to finance the construction, rehabilitation, and repair of schools under the jurisdiction of the government of the District of Columbia, and

''(B) are certified by the District of Columbia Control Board as meeting the requirements of subparagraph (A) after giving 60 days notice of any proposed certification to the Subcommittees on the District of Columbia of the Committees on Appropriations of the House of Representatives and the Senate.

''(d) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund for DC

Schools and to report to the Congress each year on the financial condition and the results of the operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

''(e) INVESTMENT.—

''(1) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund for DC Schools as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

''(A) on original issue at the issue price, or

''(B) by purchase of outstanding obligations at the market price.

''(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund for DC Schools may be sold by the Secretary at the market price.

''(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund for DC Schools shall be credited to and form a part of the Trust Fund for DC Schools.''

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 522.

The amendment (No. 522), as modified, was agreed to.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 573

(Purpose: To increase the excise tax on cigarettes by 43 cents per pack and increase the tax on other tobacco products by a proportionate amount, and direct $12,000,000,000 of the resulting revenues be applied to the children's health initiative)

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts is recognized to offer an amendment on which there are 2 minutes of debate equally divided.

Mr. KENNEDY. Mr. President, I call up my amendment, which is cosponsored by Senator DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mr. DASCHLE, proposes an amendment numbered 573.

Mr. KENNEDY. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 337, beginning with line 14, strike all through page 339, line 15, and insert the following:

(a) CIGARETTES.—Section 5701(b) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by striking ''$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)'' and inserting ''$33.50 per thousand'', and

(2) in paragraph (2), by striking ''$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)'' and inserting ''$70.35 per thousand''.

(b) CIGARS.—Section 5701(a) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by striking ''$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)'' and inserting ''$3.141 cents per thousand'', and

(2) by striking ''equal to'' and all that follows in paragraph (2) and inserting ''equal to 35.59 percent of the price for which sold but not more than $83.75 per thousand.''

(c) CIGARETTE PAPERS.—Section 5701(c) of the Internal Revenue Code of 1986 is amended by striking ''0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)'' and inserting ''2.09 cents''.

(d) CIGARETTE TUBES.—Section 5701(d) of the Internal Revenue Code of 1986 is amended by striking ''1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)'' and inserting ''4.18 cents''.

(e) SMOKELESS TOBACCO.—Section 5701(e) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by striking ''36 cents (30 cents on snuff removed during 1991 or 1992)'' and inserting ''$1.00'', and

(2) by striking ''12 cents (10 cents on chewing tobacco removed during 1991 or 1992)'' in paragraph (2) and inserting ''33.5 cents''.

(f) PIPE TOBACCO.—Section 5701(f) of the Internal Revenue Code of 1986 is amended by striking ''67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)'' and inserting ''$1.88''.

(g) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5701 (relating to rate of tax) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of $1.74 cents per pound (and a proportionate tax at the like rate on all fractional parts of a pound).''

On page 349, between lines 2 and 3, insert the following:

(k) APPROPRIATION OF PORTION OF RESULTING REVENUES FROM INCREASE IN TAXES ON TOBACCO PRODUCTS TO CHILDREN'S HEALTH INSURANCE INITIATIVES.—In addition to any amounts otherwise appropriated for the purpose of carrying out title XXI of the Social Security Act (relating to children's health insurance initiatives), there is appropriated from the increase in revenues resulting from the amendments made by this section $2,400,000,000 for each of the fiscal years 1998 through 2002.

Mr. KENNEDY. Mr. President, this amendment adds $12 billion to the child health insurance program. It is financed by an additional 23-cents-a-pack increase in the tobacco tax. This amount is necessary to ensure that all children not eligible for Medicare, but not able to afford private insurance, will have access the health coverage.

CBO says that the current bill, a proposal that is before the Senate, will not do the job. The administration strongly supports the amendment. So do 72 percent of the American people.

I will just take 15 seconds to read a letter from the American Academy of Pediatrics:

53,000 primary care pediatricians, pediatric medical subspecialists, pediatric surgeons and specialists dedicated to the health, safety, and well-being of infants, children, adolescents and young adults strongly support your amendment to increase the tax by 23 cents for use in financing the children's health care legislation.

I hope that with this amendment we will be able to complete the job for working families in this country that are unable to afford insurance today.

Mr. NICKLES. Mr. President, I urge my colleagues to vote no on Senator KENNEDY's amendment. I am bothered by the amendment to some extent. I heard the Senator say the administration supports the amendment. The administration agreed to $16 billion for the so-called KIDCARE Program. That was the agreement. And then to see a letter by the administration that says now they support this amendment, that is ridiculous.

The Finance Committee increased from $16 billion to $24 billion, more than I think is necessary for the program. The Finance Committee said, ''That is all we will do.'' Now we see the administration say they support this. When is a deal a deal? We can't trust this administration any more than a day. That is beyond belief.

So now we have a program. Senator KENNEDY introduced it as a $20 billion program. We are now financing it at $24 billion, 120 percent of what he originally asked for. He should say, ''Hey, we won,'' and now he comes back and says he wants another $12 billion, to make it $36 billion. The administration agreed to $16 billion. Now they are trying to make it $36 billion. Taxpayers cannot afford it.

Finally, the net tax cut, if this amendment is passed, will be 60, not 85. It will be 60.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Did you say the administration favors this?

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. I ask for 30 seconds, and the Senator can have 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Let me say to the White House, if there are too many more like this where you support amendments that you did not agree to, and you actually agreed we did not have to do, then I am sending you a signal right now I am going to conference and I don't know if Senator DOMENICI is going to be bound by that agreement.

I make a point of order that this violates the Budget Act.

Mr. KENNEDY. Mr. President, the Republican leadership has been willing to accept a tobacco tax which the Republican leadership said was going to violate the budget agreement which the President previously supported. Now the President and the Republican leadership have accepted a 20 cent tobacco tax. The only trouble with the Senator from Oklahoma's mathematics is he does not include the $14 billion that they were instructed to reduce Medicaid.

So, this is necessary, according to the Republican's own CBO. This is necessary to cover insurance. Let's turn our backs on big tobacco and put our faith in little children.

Mr. President, this amendment reduces the deficit, and I move to waive the Budget Act.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on the motion to waive the Budget Act. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

The yeas and nays resulted—yeas 30, nays 70, as follows:

[Rollcall Vote No. 149 Leg.]

YEAS—30

Akaka	Feingold	Levin
Biden	Feinstein	Lieberman
Bingaman	Glenn	Mikulski
Boxer	Harkin	Murray
Bumpers	Johnson	Reed
Cleland	Kennedy	Reid
Daschle	Kerry	Sarbanes
Dodd	Kohl	Torricelli
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	Wyden

NAYS—70

Abraham	Ford	McCain
Allard	Frist	McConnell
Ashcroft	Gorton	Moseley-Braun
Baucus	Graham	Moynihan
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Breaux	Grassley	Robb
Brownback	Gregg	Roberts
Bryan	Hagel	Rockefeller
Burns	Hatch	Roth
Byrd	Helms	Santorum
Campbell	Hollings	Sessions
Chafee	Hutchinson	Shelby
Coats	Hutchison	Smith (NH)
Cochran	Inhofe	Smith (OR)
Collins	Inouye	Snowe
Conrad	Jeffords	Specter
Coverdell	Kempthorne	Stevens
Craig	Kerrey	Thomas
D'Amato	Kyl	Thompson
DeWine	Landrieu	Thurmond
Domenici	Lott	Warner
Enzi	Lugar	
Faircloth	Mack	

The PRESIDING OFFICER. On this vote, the yeas are 30, the nays are 70. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The amendment violates section 302(f) of the Budget Act by causing the Finance Committee to exceed its outlay allocation. The point of order is sustained.

Mr. COVERDELL addressed the Chair.

Mr. ROTH. Senator COVERDELL is next in the line of amendments.

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia is recognized to offer an amendment on which there are 2 minutes of debate equally divided.

AMENDMENT NO. 574

(Purpose: To allow tax-free expenditures from an education individual retirement account for elementary and secondary school expenses and to adjust the modifications to the minimum tax)

Mr. COVERDELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. COVERDELL], for himself, Mr. ABRAHAM, Mr. COATS, Mr. CRAIG, Mr. SANTORUM, and Mr. ASHCROFT, proposes an amendment numbered 574.

Mr. COVERDELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, between lines 14 and 15, insert:

''(D) ADJUSTMENT.—The Secretary shall reduce the dollar amounts otherwise in effect under this paragraph for any calendar year to the extent necessary to increase Federal revenues by the amount the Secretary estimates Federal revenues will be reduced by reason of allowing distributions from education individual retirement accounts under section 530 to be used for qualified elementary and secondary education expenses described in section 530(b)(2)(A)(ii).''

On page 64, beginning with line 8, strike all through page 67, line 15, and insert:

''(1) EDUCATION INDIVIDUAL RETIREMENT ACCOUNT.—The term 'education individual retirement account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified education expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

''(A) No contribution will be accepted—

''(i) unless it is in cash,

''(ii) after the date on which the account holder attains age 18, or

''(iii) except in the case of rollover contributions, if such contribution would result in aggregate contributions for the taxable year exceeding the sum of—

''(I) $2,000, plus

''(II) the amount of the credit allowable under section 25A for the taxable year for 1 qualifying child.

''(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

''(C) No part of the trust assets will be invested in life insurance contracts.

''(D) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

''(E) Upon the death of the account holder, any balance in the account will be distributed as required under section 529(b)(8) (as if such account were a qualified tuition program).

''(F) The account becomes an IRA Plus as of the date the account holder attains age 30 (and meets all requirements for an IRA Plus on and after such date), unless the account holder elects to have sections 529(b)(8) apply as of such date (as if such account were a qualified tuition program).

''(2) QUALIFIED EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified education expenses' means—

''(i) qualified higher education expenses (as defined in section 529(e)(3), and

''(ii) in the case of taxable years beginning after December 31, 2000, qualified elementary and secondary education expenses (as defined in paragraph (5)).

''(B) QUALIFIED TUITION PROGRAMS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified tuition program (as defined in section 529(b)) for the benefit of the account holder.

''(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible education institution' has the meaning given such term by section 529(e)(5).

''(4) ACCOUNT HOLDER.—The term 'account holder' means the individual for whose benefit the education individual retirement account is established.

''(5) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means tuition, fees, tutoring, special needs services, books, supplies, equipment, transportation, and supplementary expenses required for the enrollment or attendance at a public, private, or sectarian school of any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151.

''(B) SPECIAL RULE FOR HOMESCHOOLING.—Such term shall include expenses described in subparagraph (A) required for education provided for homeschooling if the requirements of any applicable State or local law are met with respect to such education.

''(C) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (through grade 12), as determined under State law.

''(c) TAX TREATMENT OF DISTRIBUTIONS.—

''(1) IN GENERAL.—Any amount paid or distributed shall be includable in gross income to the extent required by section 529(c)(3) (determined as if such account were a qualified tuition program and as if qualified higher education expenses include qualified education expenses).

''(2) SPECIAL RULES FOR APPLYING ESTATE AND GIFT TAXES WITH RESPECT TO ACCOUNT.—Rules similar to the rules of paragraphs (2), (4), and (5) of section 529(c) shall apply for purposes of this section.

''(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR EDUCATIONAL EXPENSES.—

''(A) IN GENERAL.—The tax imposed by section 529(f) shall apply to payments and distributions from an education individual retirement account in the same manner as such tax applies to qualified tuition programs (as defined in section 529), except that section 529(f) shall be applied by reference to qualified education expenses.

Mr. COVERDELL. Mr. President, I wonder if we could bring the Senate to order.

The PRESIDING OFFICER. The Senate will please come to order.

The Senator from Georgia.

Mr. COVERDELL. Mr. President, the bill currently provides an education IRA for college expenses only. But, of course, not every child goes to college. Every child does, however, attend elementary and secondary school.

This amendment expands the education IRA to allow parents to use it for any education expenses, including tuition from kindergarten through high school. I am pleased to be joined on this amendment by Senators ABRAHAM, COATS, CRAIG, SANTORUM, and ASHCROFT.

Mr. President, it is important to help parents cope with the cost of college, but that is not where the crisis is. The crisis in our schools is in elementary and secondary schools that are riddled with drugs and violence. Let's do something to help those parents, too.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time on the opposite side?

Mr. COVERDELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DASCHLE. Mr. President, this is tantamount to providing vouchers for private education. That is in essence what this amendment does. For that reason, we oppose it.

Mr. COVERDELL. Mr. President, how much of my time remains?

The PRESIDING OFFICER. The Senator has 13 seconds.

Mr. COVERDELL. Mr. President, this is their own money. This involves no tax money. This belongs to the taxpayer. They ought to be able to use it wherever they decide.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. COATS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 41, as follows:

[Rollcall Vote No. 150 Leg.]

YEAS—59

Abraham	Gorton	Mack
Allard	Gramm	McCain
Ashcroft	Grams	McConnell
Bennett	Grassley	Murkowski
Biden	Gregg	Nickles
Bond	Hagel	Roberts
Breaux	Harkin	Roth
Brownback	Hatch	Santorum
Burns	Helms	Sessions
Campbell	Hutchinson	Shelby
Coats	Hutchison	Smith (NH)
Cochran	Inhofe	Smith (OR)
Coverdell	Kempthorne	Specter
Craig	Kohl	Stevens
D'Amato	Kyl	Thomas
DeWine	Landrieu	Thompson
Domenici	Leahy	Thurmond
Enzi	Lieberman	Torricelli
Faircloth	Lott	Warner
Frist	Lugar	

NAYS—41

Akaka	Durbin	Levin
Baucus	Feingold	Mikulski
Bingaman	Feinstein	Moseley-Braun
Boxer	Ford	Moynihan
Bryan	Glenn	Murray
Bumpers	Graham	Reed
Byrd	Hollings	Reid
Chafee	Inouye	Robb
Cleland	Jeffords	Rockefeller
Collins	Johnson	Sarbanes
Conrad	Kennedy	Snowe
Daschle	Kerrey	Wellstone
Dodd	Kerry	Wyden
Dorgan	Lautenberg	

The amendment (No. 574) was agreed to.

CHANGE OF VOTE

Mr. BOND. Mr. President, on rollcall No. 150, on which I voted ''no,'' it was my intention to vote ''aye.'' Since it will in no way change the outcome of the vote, I ask unanimous consent that I be recorded as an ''aye.''

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 541

Mr. BINGAMAN. Mr. President, I call up amendment No. 541 which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, and Mr. CONRAD, proposes an amendment numbered legislative 541.

(The amendment is printed in the RECORD of Thursday, June 26, 1997.)

Mr. BINGAMAN. Mr. President, this amendment is being offered on behalf of myself and Senator CONRAD.

Mr. President, we all understand what regular IRA's are about and how those work where a person can put up to $2,000 into an IRA. It accumulates earnings over a career, and then when you retire you go ahead and pay tax on it.

What we have in this bill is something different than a regular IRA. We have an IRA Plus. The IRA Plus differs in a very important way. What this chart shows is it essentially says if you agree to pay the tax that is due on your existing IRA up through the end of next year, the 1st of January 1998, it will give you the time that this budget agreement covers to pay all of that tax in. And then the earnings from that money in that IRA Plus account are never going to be taxed the rest of your life.

That is what the provision is. It is a back-loaded IRA which means it is specifically for people who are not eligible for the other types of IRA's. So if you have over $100,000 and you already have a retirement account, then you can have an IRA Plus. The earnings from the funds in that IRA Plus will never be taxed.

I urge the Senate to adopt our amendment.

Mr. ROTH. Mr. President, we need to do something about our savings rates. Americans are saving less now than they did than at almost any time since World War II. The universal IRA Plus is our best bet to bolster our fledgling savings rate. In fact, expanding IRA's is the only prosaving provision in the budget. The universal IRA Plus account compliments the tax deductible IRA because it offers a long-term predictable savings program for millions of families with fluctuating incomes, and who do not have employer retirement plans.

Senator BINGAMAN's chart is misleading because the taxpayer must be at least 59½ years old before withdrawals are tax free. It is particularly important for the self-employed like farmers and young families who hopefully will be successful and grow out of the tax-deductible IRA into the IRA Plus. With all these advantages, the backloaded IRA must be included in the budget bill. Fifty-one Senators have cosponsored my super-IRA legislation and agree with me.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROTH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 33, nays 67, as follows:

[Rollcall Vote No. 151 Leg.]

YEAS—33

Akaka	Durbin	Kerry
Bingaman	Feingold	Lautenberg
Boxer	Feinstein	Leahy
Bumpers	Ford	Levin
Byrd	Glenn	Murray
Cleland	Harkin	Reed
Collins	Hollings	Reid
Conrad	Inouye	Robb
Daschle	Jeffords	Sarbanes
Dodd	Johnson	Snowe
Dorgan	Kennedy	Wellstone

NAYS—67

Abraham	Gorton	Mikulski
Allard	Graham	Moseley-Braun
Ashcroft	Gramm	Moynihan
Baucus	Grams	Murkowski
Bennett	Grassley	Nickles
Biden	Gregg	Roberts
Bond	Hagel	Rockefeller
Breaux	Hatch	Roth
Brownback	Helms	Santorum
Bryan	Hutchinson	Sessions
Burns	Hutchison	Shelby
Campbell	Inhofe	Smith (NH)
Chafee	Kempthorne	Smith (OR)
Coats	Kerrey	Specter
Cochran	Kohl	Stevens
Coverdell	Kyl	Thomas
Craig	Landrieu	Thompson
D'Amato	Lieberman	Thurmond
DeWine	Lott	Torricelli
Domenici	Lugar	Warner
Enzi	Mack	Wyden
Faircloth	McCain	
Frist	McConnell	

The amendment (No. 541) was rejected.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. If we could get attention of Senators and if conversations could be taken to the cloakroom.

The Senator from North Dakota.

AMENDMENTS NOS. 515 AND 516 WITHDRAWN

Mr. DORGAN. I ask unanimous consent to withdraw amendments Nos. 515 and 516 at the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments (Nos. 515 and 516) were withdrawn.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I think the next one is Mr. KOHL.

The PRESIDING OFFICER. The Senator from Wisconsin will suspend until we can get the attention of the Chamber.

Mr. ROTH. It is my understanding the next one on the list is an amendment by Senator KOHL.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

AMENDMENT NO. 575

(Purpose: To provide a credit against tax for employers who provide child care assistance for dependents of their employees)

Mr. KOHL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. COATS). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for himself, Mr. HATCH, Mr. DASCHLE, Mr. D'AMATO, Ms. MOSELEY-BRAUN, Mr. ABRAHAM, Mr. SPECTER, Ms. SNOWE, Mrs. BOXER, Mr. DEWINE, Mrs. MURRAY, and Mr. JOHNSON, proposes an amendment numbered 575.

Mr. KOHL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. KOHL. This amendment provides a tax incentive for companies that provide quality child care for the children of their employees. The amendment is cosponsored by Senators HATCH, DASCHLE, DEWINE, BOXER, D'AMATO, SPECTER, SNOWE, JOHNSON, ABRAHAM, MOSELEY-BRAUN, and MURRAY. This amendment creates a tax credit limited to 50 percent of $150,000 per company per year for 3 years for those companies that invest in quality child care on or near site. The credit is offset by authorizing the antifraud program that will keep parents who do not have custody of their children from unlawfully claiming child-related tax benefits.

We know child care is an investment that is good for children, good for business, good for States and good for our Nation. We need to involve every level of government and private communities and private businesses in building a quality child care system for our youngest that is the best in the world. This amendment is the first essential and deficit-neutral step toward that end.

I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, while I am sympathetic to my colleague's effort to provide quality child care, I regret I must oppose his amendment. This bill already contains meaningful child care tax relief for families. This proposal would give that tax relief to employers.

For this reason I must oppose this amendment. I point out the amendment is not germane and, with all time yielded back, I make a point of order of germaneness. I therefore raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. I move to waive the Budget Act for my amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays are ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted, yeas 72, nays 28, as follows:

[Rollcall Vote No. 152 Leg.]

YEAS—72

Abraham	Feingold	Lieberman
Akaka	Feinstein	Lugar
Allard	Ford	McCain
Ashcroft	Frist	McConnell
Baucus	Glenn	Mikulski
Biden	Graham	Murray
Bingaman	Grams	Reed
Boxer	Grassley	Reid
Brownback	Gregg	Robb
Bryan	Harkin	Roberts
Bumpers	Hatch	Rockefeller
Campbell	Hollings	Santorum
Cleland	Hutchison	Sarbanes
Coats	Inouye	Smith (NH)
Collins	Jeffords	Smith (OR)
Conrad	Johnson	Snowe
Coverdell	Kempthorne	Specter
D'Amato	Kennedy	Stevens
Daschle	Kerry	Thompson
DeWine	Kohl	Thurmond
Dodd	Landrieu	Torricelli
Domenici	Lautenberg	Warner
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden

NAYS—28

Bennett	Gorton	Moseley-Braun
Bond	Gramm	Moynihan
Breaux	Hagel	Murkowski
Burns	Helms	Nickles
Byrd	Hutchinson	Roth
Chafee	Inhofe	Sessions
Cochran	Kerrey	Shelby
Craig	Kyl	Thomas
Enzi	Lott	
Faircloth	Mack	

The PRESIDING OFFICER. On this vote the yeas are 72, the nays are 28. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The question is now on agreeing to the underlying amendment.

The amendment (No. 575) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, Senator JEFFORDS is next on the list to offer an amendment.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Vermont.

AMENDMENT NO. 555

(Purpose: To encourage improvements in child care services and options for meeting employment-related child care needs)

Mr. JEFFORDS. Mr. President, I have a child care amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for himself, Mr. DODD, Mr. ROBERTS, Mr. JOHNSON, Mr. KOHL, Ms. SNOWE, Ms. LANDRIEU, Mr. CHAFEE, Mr. D'AMATO, Ms. COLLINS, Mr. SMITH of Oregon, Mr. CAMPBELL, Mr. KENNEDY, Mr. ENZI, Mr. ALLARD, Mr. STEVENS, Mr. GRASSLEY, Ms. MIKULSKI, Mr. KERRY, and Mr. GRAHAM, proposes an amendment numbered 555.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in the June 26, 1997, edition of the RECORD.)

Mr. JEFFORDS. Mr. President, this is a natural follow-on to the previous amendment. We are all aware of the need for good child care. There are more than 12 million children who are in child care. At least 15 percent are in care that is so bad that their health and safety are threatened; 40 percent of the infants in child care are in very risky situations.

For the many parents who would change their child care if they could find and afford better, this amendment provides tax relief through the child care tax credits, and it helps business meet the child care needs of their employees through the business tax credits and deductions.

We expand choices for parents, because if you can't afford the child care you find, you don't have much choice. Representatives of the religious and for-profit child care providers worked with us on the language related to accreditation and credentialing.

I ask unanimous consent that the following Members be added as cosponsors: Senators DODD, ROBERTS, KOHL, LANDRIEU, SNOWE, JOHNSON, CHAFEE, D'AMATO, COLLINS, GORDON SMITH, CAMPBELL, KENNEDY, ENZI, ALLARD, STEVENS, GRASSLEY, MIKULSKI, KERRY, and GRAHAM.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. I reserve the remainder of my time, if I have any left.

The PRESIDING OFFICER. The Senator's time has expired. There is 1 minute in opposition. The Senator from Indiana.

Mr. COATS. Mr. President, we all want to improve quality care for child care. We spend nearly $1 billion now

doing that. As chairman of the Children and Family Subcommittee I am committed to that. I commend Senator JEFFORDS, Senator DODD, and others for work in that area.

The reason I oppose this particular amendment is, first of all, because it is an amorphous amendment. It brings a number of things together. There is one in here we tried to work out. I think we ought to oppose it, take it back to committee, bring it through, and bring a true quality child care amendment forward.

This forces grandparents, neighbors, and family day-care providers who already comply with State child care laws to meet now an additional standard, certified by a State-recognized agency or entity to submit to additional monitoring in order to have the care that they provide qualify for this additional tax credit.

We should not provide a preference tax credit for those who provide care outside the State certification. There are mothers and neighbors and relatives who do that who provide what they think is quality care and, more important, what the mothers and parents of children think is quality care.

I yield whatever time I have left to the Senator from Oklahoma.

The PRESIDING OFFICER. All time has expired.

Mr. ROTH. Mr. President, the pending amendment is not germane to the provisions of the reconciliation measure. I, therefore, raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. JEFFORDS. Mr. President, I understand this is a germaneness objection. I move to waive the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

Mr. FORD. I announce that the Senator from South Carolina [Mr. HOLLINGS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 57, nays 42, as follows:

[Rollcall Vote No. 153 Leg.]

YEAS—57

Akaka	Daschle	Kennedy
Allard	Dodd	Kerrey
Baucus	Dorgan	Kerry
Biden	Durbin	Kohl
Bingaman	Enzi	Landrieu
Boxer	Feingold	Lautenberg
Breaux	Feinstein	Leahy
Bryan	Ford	Levin
Bumpers	Glenn	Lieberman
Campbell	Graham	Mack
Chafee	Harkin	Mikulski
Cleland	Hutchison	Moseley-Braun
Conrad	Inouye	Murray
Coverdell	Jeffords	Reed
D'Amato	Johnson	Reid
Robb	Smith (OR)	Torricelli
Roberts	Snowe	Warner
Rockefeller	Specter	Wellstone
Sarbanes	Stevens	Wyden

NAYS—42

Abraham	Frist	Lugar
Ashcroft	Gorton	McCain
Bennett	Gramm	McConnell
Bond	Grams	Moynihan
Brownback	Grassley	Murkowski
Burns	Gregg	Nickles
Byrd	Hagel	Roth
Coats	Hatch	Santorum
Cochran	Helms	Sessions
Collins	Hutchinson	Shelby
Craig	Inhofe	Smith (NH)
DeWine	Kempthorne	Thomas
Domenici	Kyl	Thompson
Faircloth	Lott	Thurmond

NOT VOTING—1

Hollings

The PRESIDING OFFICER. On this vote the yeas are 57, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the Senator from New Jersey.

AMENDMENT NO. 578

(Purpose: To exclude certain severance payment amounts from income and to modify the time periods for carryback and carryforward of unused credits)

Mr. TORRICELLI. Mr. President, I have an amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. TORRICELLI], for himself and Ms. LANDRIEU, proposes an amendment numbered 578.

Mr. TORRICELLI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . EXCLUSION FROM INCOME OF SEVERANCE PAYMENT AMOUNTS; TIME PERIODS FOR CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.

(a) EXCLUSION FROM INCOME OF SEVERANCE PAYMENT AMOUNTS.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. SEVERANCE PAYMENTS.

''(a) IN GENERAL.—In the case of an individual, gross income shall not include any qualified severance payment.

''(b) LIMITATION.—The amount to which the exclusion under subsection (a) applies shall not exceed $2,000 with respect to any separation from employment.

''(c) QUALIFIED SEVERANCE PAYMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified severance payment' means any payment received by an individual if—

''(A) such payment was paid by such individual's employer on account of such individual's separation from employment,

''(B) such separation was in connection with a reduction in the work force of the employer, and

''(C) such individual does not attain employment within 6 months of the date of such separation in which the amount of compensation is equal to or greater than 95 percent of the amount of compensation for the employment that is related to such payment.

''(2) LIMITATION.—Such term shall not include any payment received by an individual if the aggregate payments received with respect to the separation from employment exceed $125,000.''

(b) TIME PERIODS FOR CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.—Section 39(a) (relating to unused credits) is amended—

(1) in paragraph (1), by striking ''3'' each place it appears and inserting ''1'' and by striking ''15'' each place it appears and inserting ''20''; and

(2) in paragraph (2), by striking ''18'' each place it appears and inserting ''22'' and by striking ''17'' each place it appears and inserting ''21''.

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the time relating to section 138 and inserting the following new items:

''Sec. 138. Severance payments.

''Sec. 139. Cross references to other Acts.''

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to taxable years beginning after December 31, 1997, and before July 1, 2002.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to the carryback and carryforward of credits arising in taxable years beginning after December 31, 1997.

Mr. TORRICELLI. Mr. President, as the Senate has considered tax relief for people of means to encourage them to invest in a growing economy and people of more modest means to help with their education, I offer an amendment to deal with a different group of Americans, people not of high or medium income, but people of no income.

Even in good economic times, through no fault of their own, through mergers, acquisitions, downsizing, or foreign competition, companies need to sometimes reduce their work force. And corporate America is responding responsibly by offering severance pay.

My amendment simply takes the first $3,000 of severance pay offered to any American who loses their job through downsizing and makes that $3,000 tax free. It is offset. It is responsible. It is an appropriate Government response to a corporate policy which is the right way to help Americans to adjust to start their own businesses or retirement.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

There is 1 minute in opposition.

Who seeks recognition?

Mr. MOYNIHAN. Mr. President, I do not believe there is any opposition. It is an excellent proposal.

Mr. ROTH. We are ready and willing to accept it by voice vote.

Mr. TORRICELLI. Mr. President, I thank the Chairman.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 578) was agreed to.

Mr. MOYNIHAN. I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 579

(Purpose: To improve health care quality and reduce health care costs by establishing a National Fund for Health Research that would significantly expand the Nation's investment in medical research)

Mr. HARKIN. I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. D'AMATO, Mr. MACK, and Mr. SPECTER, proposes an amendment numbered 579.

Mr. HARKIN. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1027, between lines 7 and 8, insert the following:

Subtitle N—National Fund for Health Research

SEC. 5995. SHORT TITLE.

This subtitle may be cited as the ''National Fund for Health Research Act''.

SEC. 5996. FINDINGS.

Congress makes the following findings:

(1) Nearly 4 of 5 peer reviewed research projects deemed worthy of funding by the National Institutes of Health are not funded.

(2) Less than 3 percent of the nearly one trillion dollars our Nation spends on health care is devoted to health research, while the defense industry spends 15 percent of its budget on research and development.

(3) Public opinion surveys have shown that Americans want more Federal resources put into health research and are willing to pay for it.

(4) Ample evidence exists to demonstrate that health research has improved the quality of health care in the United States. Advances such as the development of vaccines, the cure of many childhood cancers, drugs that effectively treat a host of diseases and disorders, a process to protect our Nation's blood supply from the HIV virus, progress against cardiovascular disease including heart attack and stroke, and new strategies for the early detection and treatment of diseases such as colon, breast, and prostate cancer clearly demonstrates the benefits of health research.

(5) Health research which holds the promise of prevention of intentional and unintentional injury and cure and prevention of disease and disability, is critical to holding down health care costs in the long term.

(6) Expanded medical research is also critical to holding down the long-term costs of the medicare program under title XVIII of the Social Security Act. For example, recent research has demonstrated that delaying the onset of debilitating and costly conditions like Alzheimer's disease could reduce general health care and medicare costs by billions of dollars annually.

(7) The state of our Nation's research facilities at the National Institutes of Health and at universities is deteriorating significantly. Renovation and repair of these facilities are badly needed to maintain and improve the quality of research.

(8) Because discretionary spending is likely to decline in real terms over the next 5 years, the Nation's investment in health research through the National Institutes of Health is likely to decline in real terms unless corrective legislative action is taken.

(9) A health research fund is needed to maintain our Nation's commitment to health research and to increase the percentage of approved projects which receive funding at the National Institutes of Health.

SEC. 5997. ESTABLISHMENT OF FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the ''National Fund for Health Research'' (hereafter in this section referred to as the ''Fund''), consisting of such amounts as are transferred to the Fund under subsection (b), any sums specifically designated for such purpose by future acts of Congress, and any interest earned on investment of amounts in the Fund.

(b) TRANSFERS TO FUND.—

(1) IN GENERAL.—The Secretary of the Treasury shall transfer to the Fund amounts equivalent to one half the amounts for each of the fiscal years 1998 through 2002 derived for each such fiscal year under Section 311 through Section 314 of this act that exceeds the amount of Federal revenues estimated by the Joint Tax Committee as of the date of enactment of this act, to be gained from enactment of Section 311 through Section 314 for each such fiscal year.

(B) DETERMINATION BY SECRETARY.—Not later than 6 months after the end of each of the fiscal years described in subparagraph (A), the Secretary of the Treasury shall—

(i) make a determination as to the amount to be transferred to the Fund for the fiscal year involved under this subsection; and

(ii) subject to subsection (d), transfer such amount to the Fund.

(C) FUND ADMINISTERED BY HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services shall administer funds transferred into the Fund.

(D) CAP ON TRANSFER.—Amounts transferred to the Fund under this subsection for any year in the 5-fiscal year period beginning on October 1, 1997, shall not in combination with the appropriated sum exceed an amount equal to the amount appropriated for the National Institutes of Health for fiscal year 1997 multiplied by 2.

(c) OBLIGATIONS FROM FUND.—

(1) IN GENERAL.—Subject to the provisions of paragraph (4), with respect to the amounts made available in the Fund in a fiscal year, the Secretary of Health and Human Services shall distribute—

(A) 2 percent of such amounts during any fiscal year to the Office of the Director of the National Institutes of Health to be allocated for the following activities:

(i) for carrying out the responsibilities of the Office of the Director, including the Office of Research on Women's Health and the Office of Research on Minority Health, the Office of Alternative Medicine, the Office of Rare Disease Research, the Office of Behavioral and Social Sciences Research (for use for efforts to reduce tobacco use), the Office of Dietary Supplements, and the Office for Disease Prevention; and

(ii) for construction and acquisition of equipment for or facilities of or used by the National Institutes of Health;

(B) 2 percent of such amounts for transfer to the National Center for Research Resources to carry out section 1502 of the National Institutes of Health Revitalization Act of 1993 concerning Biomedical and Behavioral Research Facilities;

(C) 1 percent of such amounts during any fiscal year for carrying out section 301 and part D of title IV of the Public Health Service Act with respect to health information communications; and

(D) the remainder of such amounts during any fiscal year to member institutes and centers, including the Office of AIDS Research, of the National Institutes of Health in the same proportion to the total amount received under this section, as the amount of annual appropriations under appropriations Acts for each member institute and Centers for the fiscal year bears to the total amount of appropriations under appropriations Acts for all member institutes and Centers of the National Institutes of Health for the fiscal year.

(2) PLANS OF ALLOCATION.—The amounts transferred under paragraph (1)(D) shall be allocated by the Director of the National Institutes of Health or the various directors of the institutes and centers, as the case may be, pursuant to allocation plans developed by the various advisory councils to such directors, after consultation with such directors.

(3) GRANTS AND CONTRACTS FULLY FUNDED IN FIRST YEAR.—With respect to any grant or contract funded by amounts distributed under paragraph (1), the full amount of the total obligation of such grant or contract shall be funded in the first year of such grant or contract, and shall remain available until expended.

(4) TRIGGER AND RELEASE OF MONIES.

(A) TRIGGER AND RELEASE.—No expenditure shall be made under paragraph (1) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

(d) REQUIRED APPROPRIATION.—No transfer may be made for a fiscal year under subsection (b) unless an appropriations Act providing for such a transfer has been enacted with respect to such fiscal year.

Mr. HARKIN. Mr. President, in this morning's paper, researchers were able to identify a gene that plays a role in Parkinson's disease. We need more funds for biomedical research.

What this amendment says, on behalf of Senators D'AMATO, SPECTER, MACK, and myself, is that we take the excess savings that will come in because of the capital gains tax cut. Half of that will go for deficit reduction; the other half will go to NIH for biomedical research.

I yield the remainder of my time first to Senator D'AMATO and then Senator SPECTER.

Mr. D'AMATO. Mr. President, a number of recent studies have demonstrated that investments in medical research can lower health care costs through the development of more cost-effective treatments. Greater funding for research will also increase our ability to combat diseases which are very costly to our Nation's health care system. We voted on May 21, 1997, 98 to 0, to double the amount of funding for NIH so we can advance our biomedical research capabilities. This impressive show of support from this body will help reduce health care costs and increase the quality of health for all of our citizens.

Voting to increase funding was easy. Now comes the hard part. Where do we get the money? We must not take money from other vital programs such as food stamps or senior citizen benefits. Can we afford to give more money for breast cancer research and take away money from programs for children? There would be no end to the debate on which is more worthy of our priorities.

There is a better way to get funds for biomedical research without cutting from other programs. I suggest that each year the Secretary of the Treasury determine whether the actual revenue impact of the capital gains provisions of this bill are more positive—more revenues gained or less lost—than levels called for in revenue scoring of this provision. If the impact is more positive, half of the revenues will be put toward deficit reduction. We could then take the other half and deposit it into a National Fund for Health Research. This fund will expand support for medical research through the National Institutes of Health [NIH].

I believe that if we acquire the money for the fund in this way we can avoid hurting other programs. Using money when there is a more positive revenue will keep us within the bounds of the balanced budget agreement. I don't believe there is a better place to put this excess money than in the research fund.

Mr. President, every one of us, the entire Senate called for an increase in funding for biomedical research. Again, I suggest that there is no better place to put the more positive revenue than in this fund. I believe that the establishment of this trust fund should be made in the same cooperative spirit that brought the entire Senate to agree to increase funding on May 21. We can then go home feeling proud that we did all we could to further advance our country's medical capabilities and in time reduce the costs of our entire health care system.

Mr. President, we voted 98 to 0 to do this. This is a matter which we can prove that we meant it. Any additional moneys will go to deficit reduction and to NIH.

Mr. SPECTER. Mr. President, the Senate voted 98 to 0 in a sense of the Senate, but turned down $1.1 billion of real money, 67 to 37.

This is a chance for those 63 Senators to redeem themselves, to redeem their promise for NIH funding.

The PRESIDING OFFICER. There is 1 minute in opposition.

Mr. ROTH. I yield to the Senator from Pennsylvania.

Mr. SANTORUM. If this amendment is adopted, there is no money for tax cuts, if that money was available from extra funds.

I do not think that is a good idea. I think it hamstrings Congress. If there is extra money, we should give it back to the people who paid it here. We should not be putting it into more Government spending.

No. 1, my understanding is that this violates the Budget Act and is subject to a point of order.

Mr. NICKLES. I make the point of order that the amendment is not relevant under the Budget Act, subject to germaneness.

Mr. HARKIN. I move to waive the point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from South Carolina. [Mr. HOLLINGS] is necessarily absent.

The yeas and nays resulted—yeas 51, nays 48, as follows:

[Rollcall Vote No. 154 Leg.]

YEAS—51

Akaka	Glenn	McCain
Biden	Graham	Mikulski
Boxer	Grassley	Moseley-Braun
Bryan	Harkin	Moynihan
Bumpers	Hutchison	Murray
Burns	Inouye	Reed
Cleland	Jeffords	Reid
Collins	Johnson	Robb
Conrad	Kennedy	Rockefeller
D'Amato	Kerrey	Sarbanes
Daschle	Kerry	Snowe
DeWine	Kohl	Specter
Dodd	Lautenberg	Stevens
Dorgan	Leahy	Thompson
Durbin	Levin	Torricelli
Feinstein	Lieberman	Wellstone
Frist	Mack	Wyden

NAYS—48

Abraham	Domenici	Landrieu
Allard	Enzi	Lott
Ashcroft	Faircloth	Lugar
Baucus	Feingold	McConnell
Bennett	Ford	Murkowski
Bingaman	Gorton	Nickles
Bond	Gramm	Roberts
Breaux	Grams	Roth
Brownback	Gregg	Santorum
Byrd	Hagel	Sessions
Campbell	Hatch	Shelby
Chafee	Helms	Smith (NH)
Coats	Hutchinson	Smith (OR)
Cochran	Inhofe	Thomas
Coverdell	Kempthorne	Thurmond
Craig	Kyl	Warner

NOT VOTING—1

Hollings

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Mr. President, Senator MOSELEY-BRAUN is the next Senator on the list to offer an amendment.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

AMENDMENT NO. 581

(Purpose: To provide for a tax credit for public elementary and secondary school construction, and for other purposes)

Ms. MOSELEY-BRAUN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Ms. MOSELEY-BRAUN], for herself, Mr. KENNEDY, and Mr. WELLSTONE, proposes an amendment numbered 581.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Ms. MOSELEY-BRAUN. Mr. President, this amendment says that if our economy does better than we today expect that it will, we will devote some of that increased revenue to help rebuild our Nation's crumbling schools.

The General Accounting Office makes it very clear that we have at least 112 billion dollars' worth of unmet needs with school facilities around the country. State and local governments cannot go to the property tax to meet that 112 billion dollars' worth of need. So, I say to my colleagues, in the interest of the 14 million American children who, every day, go to schools that are unfit for human habitation and which are not suitable environments for learning, I ask support for this amendment. The funds from the tax credit would only be made available if actual revenue in the Federal Treasury exceeded CBO's annual revenue projections, and up to $1 billion above and beyond CBO revenue estimates will be deposited into a school infrastructure trust fund. It would be distributed to the States in allocable tax credits. This is a problem that will not go away. It will only get worse if we don't address it now. Thank you.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I urge my colleagues to vote no on this amendment. I understand there will be a voice vote. Mr. President, this proposal is, in essence, converting an education infrastructure grant program into a tax credit. In my opinion, that is not a good idea. The administration, while they originally proposed having the $5 billion for schools, during the negotiation they dropped that. That wasn't part of the agreed-upon package. I might also mention that the Department of Education said, ''The Department recommends that Congress rescind the 1995 appropriations for this program and provide no funding for 1996.'' That was the infrastructure program.

So, Mr. President, I urge colleagues to vote no on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 581) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Mr. President, I next yield to Senator MCCAIN to offer an amendment.

AMENDMENT NO. 548

(Purpose: To strike the provision relating to the extension and modification of subsidies for alcohol fuels)

Mr. MCCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 548.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 707 of the bill.

Mr. MCCAIN. Mr. President, I offer an amendment today to strike the language in the bill that provides an additional $3.8 billion in subsidies for the ethanol industry.

The amendment is very simple. It strikes in its entirety Section 707 of the bill, which would extend for an additional 7 years the tax credits for ethanol and methanol producers. The value of these ethanol subsidies is estimated by the Congressional Budget Office at $3.8 billion in lost revenues.

Mr. President, enough is enough. The American taxpayers have subsidized the ethanol industry, with guaranteed loans and tax credits, for more than 20 years. Since 1980, government subsidies for ethanol have totaled more than $10 billion. Section 707 of the bill, if not stricken, would give another $3.8 billion in tax breaks to ethanol producers.

Current law provides tax credits for ethanol producers which are estimated to cost the Treasury $770 million a year in lost revenue, and the Congressional Research Service estimates that loss may increase to $1 billion by the year 2000. These huge tax credits effectively increase the tax burden on other businesses and individual taxpayers.

The current tax subsidies for ethanol are scheduled to expire in the year 2000. This amendment does not change current law; it allows the existing generous subsidies to continue through the year 2000. The amendment merely ensures that the subsidies do expire and are not extended for another 7 years.

Mr. President, let me just take a moment and try to explain why we have such generous ethanol subsidies in law today. The rationale for ethanol subsidies has changed over the years, but unfortunately, ethanol has never lived up to the claims of any of its diverse proponents.

In the late 1970's, during the energy crisis, ethanol was supposed to help the U.S. lessen its reliance on oil. But ethanol use never took off, even when gasoline prices were highest and lines were longest.

Then, in the early 1980's, ethanol subsidies were used to prop up America's struggling corn farmers. Unfortunately, the usual trickle down effect of agricultural subsidies is clearly evident. Beef and dairy farmers, for example, have to pay a higher price for feed corn, which is then passed on in the form of higher prices for meat and milk. The average consumer ends up paying the cost of ethanol subsidies in the grocery store.

By the late 1980's, ethanol became the environmentally correct alternative fuel. Unfortunately, the Department of Energy has provided statistics showing that it takes more energy to produce a gallon of ethanol than the amount of energy that gallon of ethanol contains. In addition, the Congressional Research Service, the Congressional Budget Office, and the Department of Energy all acknowledge that the environmental benefits of ethanol use, at least in terms of smog reduction, are yet unproven.

In addition, ethanol is an inefficient, expensive fuel. Just look at the 3- to 5-cent-per-gallon increase in gasoline prices during the winter months in the Washington, D.C. area when ethanol is required to be added to the fuel.

Finally, let me quote Stephen Moore, of the CATO Institute, who puts it very succinctly in a recent paper:

* * * [V]irtually every independent assessment—by the U.S. Department of Agriculture, the General Accounting Office, the Congressional Budget Office, NBC News and several academic journals—has concluded that ethanol subsidies have been a costly boondoggle with almost no public benefit.

So why do we continue to subsidize the ethanol industry? I think James Bovard of the CATO Institute put it best in a 1995 policy paper:

* * * [O]ne would be hard-pressed to find another industry as artificially sustained as the ethanol industry. The economics of ethanol are such that, for the industry to survive at all, massive trade protection, tax loopholes, contrived mandates for use, and production subsidies are vitally necessary. Only by spooking the public with bogey-men such as foreign oil sheiks, toxic air pollution, and the threatened disappearance of the American farmer can attention be deflected from the real costs of the ethanol house of cards that consumes over a billion dollars annually.

Mr. President, the House Ways and Means Committee took a bold step and included in its revenue reconciliation bill a phase-out of ethanol subsidies. In the report accompanying the bill, the Committee stated:

[Ethanol tax subsidies] were assumed to be temporary measures that would allow these fuels to become economical without permanent Federal subsidies. Nearly 20 years have passed since that enactment, and neither the projected prices of oil nor the ability of ethanol to be a viable fuel without Federal subsidies has been realized. The Committee determined, therefore, that enactment of an orderly termination of this Federal subsidy program is appropriate at this time.

And what does the Senate Finance Committee say to support its decision to extend the ethanol subsidies beyond their current expiration date? Listen to this:

The Committee believes that continued assurance of tax benefits for ethanol are [sic] an important signal to encourage the use of alternative fuels.

I commend Chairman BILL ARCHER for his decision to try to phase out ethanol subsidies. The provision in the House bill would have saved almost $250 million in the next three years. Unfortunately, I understand the provision will be removed from the House bill because of opposition in the ethanol industry. I am very disappointed that the House is taking this step back from ending ethanol subsidies.

Mr. President, we should end these subsidies. We cannot afford to subsidize the ethanol industry at a time when we are struggling with the dilemma of balancing the budget while maintaining our commitments to our senior citizens, taking care of our poor and disadvantaged citizens, and ensuring a healthy and secure future for our children.

Current law terminates ethanol subsidies after the year 2000. This amendment would avoid the $3.8 billion cost of extending the ethanol subsidies. I urge my colleagues to oppose changing current law and adopt my amendment to strike Section 707 from the bill.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KERREY. Mr. President, I will take 30 seconds and then yield to the Senator from Iowa. This provision has worked and is creating jobs—

Mr. MOYNIHAN. Mr. President, we must have order.

Mr. KERREY. This provision has worked. I urge my colleagues to vote against the motion to strike. It has created jobs and has been good for the environment and promoted alternative fuel in the agriculture community, and we have long-term contracts that individuals have taken out to build the plants. I hope my colleagues vote against this provision.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, look at how wrong the argument of the Senator from Arizona is, that when a consumer doesn't pay a gasoline tax, it turns out to be a subsidy to an industry. How wrong that argument can be. This is not a subsidy to any industry. If this amendment passes, after the year 2000 the consumers of America are going to pay more gas tax on that portion of their gasoline that is ethanol. This is good for the environment and good for agriculture. It is good for jobs in the cities—195,000 jobs. It is good for energy independence and everything. It is good, good, good.

Mr. JOHNSON. Mr. President, I rise in opposition to Senator MCCAIN's amendment to the Revenue Reconciliation Act that would eliminate the tax exemption for ethanol in the year 2000.

Mr. President, I am proud to stand in opposition of this amendment. Over the past 3 years, we have been deluged with a deliberate misinformation campaign regarding the impact of the domestic ethanol industry. The partial excise tax exemption gasoline marketers receive for blending their fuel with ethanol has been disparagingly labeled corporate welfare. This label patently ignores the important public benefits that result from the production and use of fuel ethanol. I thought I would share some of the relevant facts.

Ethanol production stimulates the economy in rural America. As a result of progressive policymakers, ethanol is now produced in 53 plants in 19 States. The production of fuel ethanol results in more than 55,000 high-wage jobs, generates greater than $2.1 billion in household income, and adds more than $7.2 billion to the economy every year. Farmers will receive an additional $2.2 billion each year because of ethanol production. Moreover, nearly all new expansion in the ethanol industry has been completed by farmer-owned cooperatives. The Department of Agriculture estimates that a 100 million gallon ethanol plant will add 2,250 jobs to a community—enhancing rural development and expansion. In short, the ethanol industry is an economic engine driving investment and opportunities across rural America.

Ethanol promotes competition and reduces consumer gasoline costs. Ethanol extends gasoline supplies, provides a valuable source of octane for independent gasoline marketers, assures competition in the oxygenate market for refiners trying to meet Clean Air Act standards, and reduces consumer costs of gasoline. As noted by the Society of Independent Gasoline Marketers of America:

> The federal benefits afforded ethanol-blended fuels have been an important, pro-competitive influence on the nation's gasoline markets. By enhancing the ability of independent marketers to price-compete with their integrated oil company competitors, this program has increased independent marketers' economic viability and reduced consumers' costs of gasoline.

Recognizing the competitive benefits of fuel ethanol in the market, Citizen Action, the Nation's largest consumer organization and strong supporter of the ethanol tax incentive, recently stated:

> The use of ethanol, a domestically produced, cleaner-burning renewable fuel helps American consumers use less polluting oil and reduces dependence on costly oil imports, which are in part subsidized by huge foreign tax credits.

Ethanol improves the U.S. trade balance. Ethanol competes with MTBE, a methanol-derived oxygenate, as an octane—oxygenate—additive. Imports of MTBE have risen from just 30 million gallons in 1992 to more than 700 million gallons last year, or about 25 percent of domestic consumption. By displacing the demand for MTBE that would be necessary without ethanol, the U.S. trade imbalance is reduced by approximately $1.3 billion annually. But the trade implications of ethanol do not end there. The majority of the coproducts of ethanol production—corn gluten feed and corn gluten meal—are exported, further reducing the trade deficit by earning over $800 million annually. The net effect is a benefit to the U.S. trade imbalance of over $2 billion each year.

Ethanol helps reduce air pollution. Ethanol adds oxygen to gasoline which reduces exhaust emissions of ozone-forming VOC's and carbon monoxide. It is widely used in reformulated gasolines currently being sold in ozone nonattainment areas across the country. Because ethanol adds octane to gasoline, it also reduces the use of other highly toxic petroleum-derived octanes, such as benzene, toluene and xylene.

Ethanol enhances our national security. This Nation spends billions of dollars to protect our oil interests around the world. It is considerably less costly to defend the corn fields of the Dakotas than it is to defend foreign oil fields.

Ethanol is good for agriculture. It is good for rural America. It is good for the environment. It reduces our dependance on foreign oil. The bottom line is that the Federal tax structure for ethanol deserves our continued support. I strongly oppose this amendment.

Mr. President, I ask unanimous consent that my remarks be inserted in the appropriate place in the CONGRESSIONAL RECORD.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. MCCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from South Carolina [Mr. HOLLINGS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 30, nays 69, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—30

Byrd	Kennedy	Santorum
Coats	Kyl	Sessions
Collins	Lautenberg	Shelby
Coverdell	Leahy	Smith (NH)
Feingold	Lieberman	Snowe
Frist	McCain	Specter
Gorton	Murray	Stevens
Gregg	Nickles	Thompson
Hutchison	Robb	Warner
Inhofe	Rockefeller	Wyden

NAYS—69

Abraham	DeWine	Kerrey
Akaka	Dodd	Kerry
Allard	Domenici	Kohl
Ashcroft	Dorgan	Landrieu
Baucus	Durbin	Levin
Bennett	Enzi	Lott
Biden	Faircloth	Lugar
Bingaman	Feinstein	Mack
Bond	Ford	McConnell
Boxer	Glenn	Mikulski
Breaux	Graham	Moseley-Braun
Brownback	Gramm	Moynihan
Bryan	Grams	Murkowski
Bumpers	Grassley	Reed
Burns	Hagel	Reid
Campbell	Harkin	Roberts
Chafee	Hatch	Roth
Cleland	Helms	Sarbanes
Cochran	Hutchinson	Smith (OR)
Conrad	Inouye	Thomas
Craig	Jeffords	Thurmond
D'Amato	Johnson	Torricelli
Daschle	Kempthorne	Wellstone

NOT VOTING—1

Hollings

So the amendment (No. 548) was rejected.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Senator LANDRIEU is next on the list of offering amendments.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

AMENDMENT NO. 532

(Purpose: To allow taxpayers with income tax liability to take the child tax credit before the earned income tax credit, and for other purposes)

Ms. LANDRIEU. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 532.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, beginning on line 9, strike all through page 17, line 23, and insert the following:

''(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—The $500 amount in subsection (a) shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the term 'threshold amount' means—

''(i) $90,000 in the case of a joint return,

''(ii) $60,000 in the case of an individual who is not married, and

''(iii) $45,000 in the case of a married individual filing a separate return.

For purposes of this subparagraph, marital status shall be determined under section 7703.

''(c) QUALIFYING CHILD.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying child' means any individual if—

''(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

''(B) such individual has not attained the age of 17 (age of 18 in the case of taxable years beginning after 2002) as of the close of the calendar year in which the taxable year of the taxpayer begins, and

''(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

''(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

''(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

''(e) RECAPTURE OF CREDIT.—

''(1) IN GENERAL.—If—

''(A) during any taxable year any amount is withdrawn from a qualified tuition program or an education individual retirement account maintained for the benefit of a beneficiary and such amount is subject to tax under section 529(f) or 530(c)(3), and

''(B) the amount of the credit allowed under this section for the prior taxable year was contingent on a contribution being made to such a program or account for the benefit of such beneficiary,

the taxpayer's tax imposed by this chapter for the taxable year shall be increased by the lesser of the amount described in subparagraph (A) or the credit described in subparagraph (B).

''(2) NO CREDITS AGAINST TAX, ETC.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining—

''(A) the amount of any credit under this subpart or subpart B or D of this part, and

''(B) the amount of the minimum tax imposed by section 55.

''(f) OTHER DEFINITIONS.—For purposes of this section, the terms 'qualified tuition program' and 'education individual retirement account' have the meanings given such terms by section 529 and 530, respectively.

''(g) PHASE IN OF CREDIT.—In the case of taxable years beginning in 1997—

''(1) subsection (a)(1) shall be applied by substituting '$250' for '$500', and

''(2) subsection (c)(1)(B) shall be applied by substituting 'age of 13' for 'age of 17'.''

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

''Sec. 24. Child tax credit.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Ms. LANDRIEU. Mr. President, I want to begin by thanking my colleagues for their great patience. It has been a long day. I thank our ranking member for his great attention to this matter.

I also want to thank Senators KERRY, JOHNSON, and DURBIN for joining me in cosponsoring this amendment.

Mr. President, this amendment would allow the $500 child tax credit that we have talked so much about in the last few days to be available to 20 million families in America that are working very hard.

Mr. President, under the current draft of the bill, these working families only get to keep about half of this credit. In my State that means 27 percent of the families in my State who are working very hard will not be able to keep the full amount of this credit.

I know this has been considered carefully. But I feel compelled to offer this amendment today. I know that in this bill we are giving tax relief to many Americans. I believe that these Americans should have the opportunity to keep the full $500 tax credit. I ask my colleagues to give favorable consideration. It is budget neutral.

Mr. MOYNIHAN. Mr. President, I would hope that there would be no opposition to this.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, much to my colleague's surprise, there is very serious opposition.

I hope we can vote this down by a voice vote.

This amendment would add outlays and increase Uncle Sam's writing of checks for the first 5 years of $9 billion and over 10 years of $19 billion. And this amendment would say that we stack these in order that people get the income education credit, the wage credit, and the tax credit that we are adding to the bill and the EIC. And on top of that, for a family with two children already gets $3,680. Uncle Sam will write the check. We would also give $1,000 on top of it.

I want to raise a point of order.

Mr. MOYNIHAN. Mr. President, I was simply going to say that this matter will surely arise in conference, and there will be support for it. The White House is very much in favor. I hope we can resolve it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NICKLES. Mr. President, I raise a point of order under section 302(f) of the Budget Act that the amendment results in the Finance Committee exceeding its spending allocation under section 602 of the Budget Act.

Ms. LANDRIEU addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I want to make a point that this is budget neutral. Technically a point of order could be raised that this is budget neutral in the amendment that I am offering. I would like to, if I could, move to waive and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive the Budget Act in relation to the Landrieu amendment No. 532. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Hawaii [Mr. INOUYE], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 39, nays 59, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—39

Akaka	Durbin	Levin
Biden	Feingold	Lieberman
Bingaman	Feinstein	Mikulski
Boxer	Ford	Murray
Breaux	Glenn	Reed
Bumpers	Harkin	Reid
Cleland	Johnson	Robb
Collins	Kennedy	Sarbanes
D'Amato	Kerry	Snowe
Daschle	Kohl	Specter
Dodd	Landrieu	Torricelli
Domenici	Lautenberg	Wellstone
Dorgan	Leahy	Wyden

NAYS—59

Abraham	Frist	McCain
Allard	Gorton	McConnell
Ashcroft	Graham	Moseley-Braun
Baucus	Gramm	Moynihan
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Brownback	Gregg	Roberts
Bryan	Hagel	Rockefeller
Burns	Hatch	Roth
Byrd	Helms	Santorum
Campbell	Hutchinson	Sessions
Chafee	Hutchison	Shelby
Coats	Inhofe	Smith (NH)
Cochran	Jeffords	Smith (OR)
Conrad	Kempthorne	Stevens
Coverdell	Kerrey	Thomas
Craig	Kyl	Thompson
DeWine	Lott	Thurmond
Enzi	Lugar	Warner
Faircloth	Mack	

NOT VOTING—2

Hollings	Inouye

The PRESIDING OFFICER. On this vote the yeas are 39, the nays are 59. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained, and the amendment falls.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Senator MCCAIN is next on the list.

POINT OF ORDER—SECTION 702(D)

Mr. MCCAIN. Mr. President, I yield 30 seconds of my 1 minute to raise a point of order to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, in this budget agreement some of us thought there was too much spending and not enough tax relief. We find that there are even more spending proposals and less tax relief than we thought. This point of order is directed at spending on Amtrak in addition to other things. There is $2.3 billion being spent out of the tax cut section going to Amtrak. I join my colleague from Arizona in asking that these matters be referred to the authorization for Amtrak and urge that the point of order be sustained.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, as chairman of the oversight committee, I want my colleagues to be clear about what is happening. This bill takes $2.3 billion out of the tax relief promised the American people and places it into a trust fund to further subsidize Amtrak. These funds would be appropriated outside of the existing budget caps ensuring that Amtrak would not have to compete with other transportation priorities such as highways or aviation.

Mr. President, I raise the point of order that section 702(d) of the bill violates section 313(b)(1)(A) of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. There is nothing to ask for them on yet.

Mr. ROTH. Mr. President, at the completion of my remarks I yield 10 seconds to the distinguished Senator from New Mexico.

There is no truth that this has any impact on tax cuts. The important point to understand is that this point of order is to kill Amtrak.

This is very important, both to Senator MOYNIHAN and to myself. Passenger rail is extremely important to the entire country. What we have done is fully paid for. We do not ask for any special treatment. The rail fund is consistent with the budget resolution agreed to by both Chambers. It has the support of Senator DOMENICI and Senator LAUTENBERG. GAO has testified that Amtrak will not survive past 1998 without this crucial funding.

We could not wait any longer. I first wanted to say, I therefore ask for your votes to this point of order.

The PRESIDING OFFICER. The question is on the motion to waive.

Mr. DOMENICI. I was going to answer the McCain question, but he did not have one. Let me just say this is provided for in the budget resolution. The way it is handled, it is totally deficit-neutral. If the money is not used for Amtrak, we are ahead of the game. If it is used, it is totally neutral. We have done this about 10 times heretofore in budget reconciliation and budget resolutions.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CHAFEE. Mr. President, I strongly support the provisions within this bill establishing a Rail Trust Fund, and oppose this point of order. Let me first state my view that these provisions do not violate the spirit of the Byrd rule, which is intended to prevent unrelated authorization bills from being brought into the reconciliation process. Section 702 of this bill, which establishes an Intercity Passenger Rail Fund, is primarily tax legislation, which most certainly belongs on legislation entitled ''The Tax Fairness Bill''.

Establishment of a trust fund is a critical element in providing passenger rail with a stable, predictable source of revenue so that Amtrak can achieve financial viability and effectively serve millions of Americans.

It is certainly no secret that Amtrak is in serious financial trouble. Earlier this year, the GAO continued a regular series of warnings in testifying to the Finance Committee on the precarious financial condition of the railroad. Amtrak President Tom Downs also confirmed to us that his railroad is in difficult shape. A number of States and communities have already felt the brunt of the railroad's financial predicament as often vital rail service has been discontinued.

There are several factors contributing to Amtrak's condition, but primarily it is a result of outdated laws governing Amtrak's operation, as well as inadequate and inconsistent support from the Federal Government. Whatever the cause, I think we can all agree that Amtrak simply cannot continue to operate under the status quo.

Amtrak's financial predicament has resulted in calls to end all Federal support for intercity passenger rail—there are those who would just throw up our hands in frustration and walk away. Mr. President, I am one who does not question the need for a Federal investment in passenger rail. The absence of passenger rail would clog our highways and airports—an additional 7,500 fully-booked 757's, or hundreds of thousands of cars, would be needed between Washington, DC, and New York every year.

All major industrialized nations provide subsidies to passenger rail, usually to a greater extent than our Government's support for Amtrak. In fact, Amtrak covers more of its operating costs—an estimated 84 percent—than any other passenger railroad in the world. Nonetheless, Amtrak operates the only mode of transportation in the United States which does not have a dedicated source of funding.

So the question before the Senate today is how best to provide needed Federal support for Amtrak's critical capital investment needs. After years of congressional hearings, GAO reports and strategic plans, I and many of my colleagues have concluded that dedicating a portion of the Federal gas tax to a Rail Trust Fund is the most appropriate and reliable means of ensuring that passenger rail can continue to meet America's transportation needs. Such a solution provides passenger rail with the same type of Federal support for capital improvements that other modes of transportation have enjoyed for years.

This bill's creation of an Intercity Passenger Rail Fund financed by one-half cent of the gas tax, coupled with the needed operating reforms contained within the Amtrak authorization bill introduced by the Senator from Texas, will allow Amtrak to operate more like a business, end its reliance on Federal operating subsidies, and thus better serve America's transportation needs.

At least for the 3½ years that this Trust Fund is financed, we will start on the path to financial stability and end the annual financial roller coaster to which Amtrak is subjected. It would also avoid a catastrophic shutdown of Amtrak, which has recently been estimated to cost upwards of $5 billion dollars.

Mr. President, Amtrak has presented to Congress a responsible 6-year strategic business plan which outlines how financial viability will be restored to the railroad. Amtrak's President Tom Downs deserves our praise for the monumental efforts he has undertaken to turn things around at his company. Congress should do its part and join him by providing a relatively modest Federal investment in passenger rail. I urge my colleagues to support this motion to waive the Budget Act.

Mr. ROTH. I move this point of order be waived, both for now and for the conference.

The PRESIDING OFFICER. The question is on the motion.

Mr. ROTH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on the motion to waive the Budget Act. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] and the Senator from South Carolina [Mr. HOLLINGS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted, yeas 77, nays 21, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—77

Akaka	Faircloth	Mack
Baucus	Feingold	McConnell
Bennett	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Grassley	Murkowski
Breaux	Hagel	Murray
Bryan	Harkin	Nickles
Bumpers	Hatch	Reed
Burns	Helms	Reid
Byrd	Hutchinson	Robb
Campbell	Hutchison	Roberts
Chafee	Inhofe	Rockefeller
Cleland	Jeffords	Roth
Coats	Johnson	Santorum
Cochran	Kennedy	Sarbanes
Collins	Kerrey	Smith (OR)
Conrad	Kerry	Snowe
D'Amato	Kohl	Specter
Daschle	Landrieu	Stevens
DeWine	Lautenberg	Thomas
Dodd	Leahy	Thurmond
Domenici	Levin	Torricelli
Dorgan	Lieberman	Wellstone
Durbin	Lott	Wyden
Enzi	Lugar	

NAYS—21

Abraham	Coverdell	Gramm
Allard	Craig	Grams
Ashcroft	Frist	Gregg
Bond	Glenn	Kempthorne
Brownback	Gorton	Kyl

McCain	Shelby	Thompson
Sessions	Smith (NH)	Warner

NOT VOTING—2

Hollings	Inouye

The PRESIDING OFFICER. On this vote, the yeas are 77, the nays are 21. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. The next to be recognized is Senator FEINGOLD.

AMENDMENT NO. 582

(Purpose: To eliminate the percentage depletion allowance for certain minerals)

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself and Mr. BUMPERS, proposes an amendment numbered 582.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 400, between lines 14 and 15, insert the following:

SEC. . CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) IN GENERAL.—Section 613(b)(1) (relating to percentage depletion rates) is amended—

(A) in subparagraph (A), by striking ''and uranium''; and

(B) in subparagraph (B), by striking ''asbestos,'', ''lead,'', and ''mercury,''.

(b) CONFORMING AMENDMENTS.—

(1) Section 613(b)(3)(A) is amended by inserting ''other than lead, mercury, or uranium'' after ''metal mines''.

(2) Section 613(b)(4) is amended by striking ''asbestos (if paragraph (1)(B) does not apply),''.

(3) Section 613(b)(7) is amended by striking ''or'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', or'', and by inserting after subparagraph (C) the following:

''(D) mercury, uranium, lead, and asbestos.''

(4) Section 613(c)(4)(D) is amended by striking ''lead,'' and ''uranium,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, this amendment eliminates percentage depletion allowances for four mined substances—asbestos, lead, mercury, and uranium—and it saves an estimated $83 million over 5 years.

Unlike depreciation or cost depletion, percentage depletion allows companies to deduct far more than their actual costs. This results in a generous loophole for the company and an expensive subsidy for the taxpayer. But it gets worse, Mr. President.

While we spend millions subsidizing corporations to mine these toxic substances, we spend even more on their downstream public health and environmental consequences.

So, as the senior Senator from Arkansas says, this subsidy gives corporate welfare a bad name.

Mr. President, I urge my colleagues to support this provision, and I yield the remainder of my time in deference to the Senator from Nevada.

The PRESIDING OFFICER. Who seeks recognition in opposition? The Senator from Texas.

Mr. GRAMM. Mr. President, it seems to me we have had enough fun now. I think we ought to reject this amendment and get on with final passage of this bill.

This is a tax cut. This is not a place to change the way we do accounting for mining. If you go out and find a body of ore, you don't have an investment you made in a piece of equipment. You have the asset that you are depleting as you produce it.

Every developed nation in the world has depletion allowance, because they want to produce the riches of their lands. This is a bad amendment and ought to be rejected.

Mr. ROTH. Mr. President, the pending amendment is not germane to the provisions of the reconciliation measure. I, therefore, raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. FEINGOLD. Mr. President, I move to waive the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act.

Mr. NICKLES. There wasn't a second.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. FEINGOLD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] and the Senator from South Carolina [Mr. HOLLINGS] are necessarily absent.

The yeas and nays resulted—yeas 37, nays 61, as follows:

[Rollcall Vote No. 158 Leg.]

YEAS—37

Akaka	Gregg	Moseley-Braun
Biden	Harkin	Murray
Boxer	Jeffords	Reed
Bumpers	Johnson	Robb
Coats	Kennedy	Rockefeller
Collins	Kerrey	Sarbanes
Daschle	Kerry	Snowe
Dodd	Kohl	Specter
Durbin	Lautenberg	Torricelli
Feingold	Leahy	Wellstone
Feinstein	Levin	Wyden
Glenn	Lieberman	
Graham	Mikulski	

NAYS—61

Abraham	Domenici	Mack
Allard	Dorgan	McCain
Ashcroft	Enzi	McConnell
Baucus	Faircloth	Moynihan
Bennett	Ford	Murkowski
Bingaman	Frist	Nickles
Bond	Gorton	Reid
Breaux	Gramm	Roberts
Brownback	Grams	Roth
Bryan	Grassley	Santorum
Burns	Hagel	Sessions
Byrd	Hatch	Shelby
Campbell	Helms	Smith (NH)
Chafee	Hutchinson	Smith (OR)
Cleland	Hutchison	Stevens
Cochran	Inhofe	Thomas
Conrad	Kempthorne	Thompson
Coverdell	Kyl	Thurmond
Craig	Landrieu	Warner
D'Amato	Lott	
DeWine	Lugar	

NOT VOTING—2

Hollings	Inouye

The PRESIDING OFFICER. On this vote the yeas are 37, the nays are 61. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. I want to get a unanimous consent.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENTS NOS. 583, 584, 585, 586, 587, 588, AND 589

Mr. ROTH. Mr. President, I ask unanimous consent to send the following amendments to the desk, and I ask unanimous consent that they be considered en bloc: Senator GRAHAM, pension technicals; the second one is Senators NICKLES and BOND, sense of the Senate regarding self-employment tax; the third is Senator SPECTER, penalty-free withdrawal on adoption; the fourth is Senator FAIRCLOTH, tax-exempt bond refunding; the fifth is Senator GORTON, bad debt reserve recapture; the sixth is Senator SANTORUM, sense of the Senate on tax cuts; and the final one is BURNS, income averaging for farmers.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes amendments numbered 583, 584, 585, 586, 587, 588, and 589.

The amendments are as follows:

AMENDMENT NO. 583

(Purpose: To provide for various amendments)

On page 93, strike lines 13 through 25, and insert:

''(ii) a silver coin described in section 5112(e) of title 31. United States Code,

''(iii) a platinum coin described in section 5112(k) of title 31. United States Code, or

''(iv) a coin issued under the laws of any State, or

''(B) any gold, silver, platinum, or palladium bullion of a fineness equal to or exceeding the minimum fineness required for metals which may be delivered in satisfaction of a regulated futures contract subject to regulation by the Commodity Futures Trading Commission under the Commodity Exchange Act,

On page 205, before line 12, insert the following:

(c) SPECIAL AMORTIZATION RULE.—

(1) CODE AMENDMENT.—Section 412(b)(2) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by inserting after subparagraph (D) the following:

''(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I).''.

(2) ERISA AMENDMENT.—Section 302(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)(2)) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by inserting after subparagraph (D) the following:

''(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 412(c)(7)(D) is amended by adding ''and'' at the end of clause (i), by striking '', and'' at the end of clause (ii) and inserting a period, and by striking clause (iii).

(B) Section 302(c)(7)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)(D)) is amended by adding ''and'' at the end of clause (i), by striking '', and'' at the end of clause (ii) and inserting a period, and by striking clause (iii).

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1998.

(B) SPECIAL RULE FOR 1999.—In the case of a plan's first year beginning in 1999, there shall be added to the amount required to be amortized under section 412(b)(2)(E) of the Internal Revenue Code of 1986 and section 302(b)(2)(E) of the Employee Retirement Income Security Act of 1974 (as added by paragraphs (1) and (2)) over the 20-year period beginning with such year, the unamortized balance (as of the close of the preceding plan year) of any amount required to be amortized under section 412(c)(7)(D)(iii) of such Code and section 302(c)(7)(D)(iii) of such Act (as repealed by paragraph (3)) for plan years beginning before 1999.

On page 639, between lines 11 and 12, insert:

(4) AMENDMENTS RELATED TO SECTION 1461.—

(A) Section 415(e)(5)(A) is amended to read as follows:

''(A) CERTAIN MINISTERS MAY PARTICIPATE.—For purposes of this part—

''(i) IN GENERAL.—A duly ordained, commissioned, or licensed minister of a church is described in paragraph (3)(B) if, in connection with the exercise of their ministry, the minister—

''(I) is a self-employed individual (within the meaning of section 401(c)(1)(B), or

''(II) is employed by an organization other than an organization which is described in section 501(c)(3) and with respect to which the minister shares common religious bonds.

''(ii) TREATMENT AS EMPLOYER AND EMPLOYEE.—For purposes of sections 403(b)(1)(A) and 404(a)(10), a minister described in clause (i)(I) shall be treated as employed by the minister's own employer which is an organization described in section 501(c)(3) and exempt from tax under section 501(a).''

(B) Section 403(b)(1)(A) is amended by striking ''or'' at the end of clause (i), by inserting ''or'' at the end of clause (ii), and by adding at the end the following new clause:

''(iii) for the minister described in section 415(e)(5)(A) by the minister or by an employer,''.

AMENDMENT NO. 584

(Purpose: To express the sense of the Senate with respect to the proposed regulations of the Internal Revenue Service with respect to self-employment income for limited partners)

On page 212, between lines 11 and 12, insert the following:

SEC. . SENSE OF THE SENATE WITH RESPECT TO SELF-EMPLOYMENT TAX OF LIMITED PARTNERS.

(a) FINDINGS.—The Senate finds that—

(1) the Department of the Treasury issued Proposed Regulation 1.1402(a)–2 in January 1997 relating to the definition of a limited partner for self-employment tax purposes under section 1402(a)(13) of the Internal Revenue Code;

(2) since 1977, section 1402(a)(13) of such Code has provided that—

(A) a limited partner's net earnings from self-employment include only guaranteed payments made to the individual for services actually rendered and do not include a limited partner's distributive share of the income or loss of the partnership, and

(B) a general partner's net earnings from self-employment include the partner's distributive share;

(3) the proposed regulations provide generally—

(A) that a partner will not be treated as a limited partner if the individual—

(i) has personal liability for partnership debts,

(ii) has authority to contract on behalf of the partnership, or

(iii) participates in the partnership's trade or business for more than 500 hours during the taxable year;

(B) that an individual meeting any one of these three criteria will be treated as a general partner, and net earnings from self-employment will include the partner's distributive share of partnership income and loss, resulting in substantial tax liability because there is a 15.3 percent tax on self-employment income below $65,400 in 1997 and a 2.9 percent hospital insurance tax on self-employment income above that amount;

(4) certain types of entities, such as limited liability companies and limited liability partnerships, were not widely used at the time the present rule relating to limited partners was enacted, and that the proposed regulations attempt to address owners of such entities;

(5) the Senate is concerned that the proposed change in the treatment of individuals who are limited partners under applicable State law exceeds the regulatory authority of the Treasury Department and would effectively change the law administratively without congressional action; and

(6) the proposed regulations address and raise significant policy issues and the proposed definition of a limited partner may have a substantial impact on the tax liability of certain individuals and may also affect individuals' entitlement to social security benefits.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the Department of the Treasury and the Internal Revenue Service should withdraw Proposed Regulation 1.1402(a)–2 which imposes a tax on limited partners; and

(2) Congress, not the Department of the Treasury or the Internal Revenue Service, should determine the tax law governing self-employment income for limited partners.

AMENDMENT NO. 585

(Purpose: To allow penalty-free IRA withdrawals for adoption expenses)

On page 20, between lines 5 and 6, insert the following:

SEC. 105. ADOPTION EXPENSES.

(a) DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PAY ADOPTION EXPENSES.—

(1) IN GENERAL.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following:

''(E) DISTRIBUTIONS FROM CERTAIN PLANS FOR ADOPTION EXPENSES.—Distributions to an individual from an individual retirement plan of so much of the qualified adoption expenses (as defined in section 23(d)(1)) of the individual as does not exceed $2,000.''.

(2) CONFORMING AMENDMENT.—Section 72(t)(2)(B) is amended by striking ''or (D)'' and inserting '', (D) or (E)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments and distributions after December 31, 1996.

AMENDMENT NO. 586

(Purpose: To permit the current refunding of certain tax-exempt bonds)

On page 267, between lines 15 and 16, insert the following:

SECTION . CURRENT REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.

(a) IN GENERAL.—Subsection (c) of section 10632 of the Revenue Act of 1987 (relating to bonds issued by Indian tribal governments) is amended by adding at the end the following new sentence: ''The amendments made by this section shall not apply to any obligation issued after such date if—

''(1) such obligation is issued (or is part of a series of obligations issued) to refund an obligation issued on or before such date,

''(2) the average maturity date of the issue of which the refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue,

''(3) the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation, and

''(4) the net proceeds of the refunding obligation are used to redeem the refunded obligation not later than 90 days after the date of the issuance of the refunding obligation.

For purposes of paragraph (2), average maturity shall be determined in accordance with section 147(b)(2)(A) of the Internal Revenue Code of 1986.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to refunding obligations issued after the date of the enactment of this Act.

CAROLINA MIRROR CO.

Mr. FAIRCLOTH. Mr. President, I rise to offer this amendment on behalf of the Eastern Band of Cherokee Indians in my home state of North Carolina.

In 1982, the Congress passed legislation to allow Indian tribes to issue tax exempt bonds, just like other units of government. The legislation recognized the rights of the tribes and confirmed their parallel rights to States, counties, and cities.

The 1982 act thus acknowledged just what most of us knew: that Indian tribes are legitimate units of government with wide-ranging responsibilities.

Using the act, the Cherokee Indians in my State issued $31 million in tax-exempt bonds to purchase the Carolina Mirror Co. The tribal leadership viewed the purchase of Carolina Mirror Co. as a means to promote jobs and economic development for their tribe and its members. The Cherokee have faced some tough times over the years. The Carolina Mirror Co. purchase was a way to invest in the future of their tribe and their people.

Carolina Mirror today is the largest manufacturer of mirrors in the Nation. It employees over 500 people. It is an economic engine. It produces jobs and hope for a people that have seen little of both over the years.

In 1986, however, the Congress passed new legislation that narrowed the interpretation of the original 1982 act. It changed the act so that tax-exempt bonds could only be used to finance ''essential government functions.''

Mr. President, as you know, interest rates are at historically low levels. I know that not enough of us have ever been in business and met a payroll, as I have for the past 50 years. Well, interest rates are the difference between profitability and bankruptcy, between jobs for the community and a lock on the factory gate. Needless to say, the Cherokees are eager to take advantage of lower interest rates and to refinance these bonds.

The interest rate on these bonds is so high that the Carolina Mirror Co. literally spends almost all of its profits on interest payments. This is devastating for the company.

When the company attempted to reissue the bonds, however, some IRS bureaucrat stepped away from the water cooler long enough to say ''no.'' The great minds at the IRS ruled that a refinancing constituted a reissuance and stopped the tribe from its plans to refinance these high interest bonds.

By reissuing bonds at a lower rate, the company could save nearly a million dollars a year, but the IRS does not look at the situation. The 500 jobs do not matter. The investment of the Cherokees in the company does not matter. No, all that matters is that we follow the mindless dictate of an unelected, unaccountable bureaucrat holed up in a Federal office building waiting for the 4 o'clock vanpool back to the suburbs. The outside world is irrelevant. The real jobs of real people are irrelevant.

The amendment that I offer today is a technical bill to allow Indian tribes to refinance tax-exempt bonds issued on or before October 13, 1997. This bill has a very narrow application. In fact, I introduced this bill last year as S. 1676. The Joint Committee on Taxation said last year—and again this year—that this bill will have a ''negligible effect on budget receipts.''

Let's do the right thing for the Cherokees. Let's tell the IRS that American jobs matter and the Congress stands behind the working men and women of this country.

I urge my colleagues to support the amendment.

Mr. HELMS. Mr. President, this amendment corrects a serious problem Congress created in 1987 when the definition for ''essential government functions'' was inadvertently changed relating to native American tribes, thereby inhibiting the tribes' use of tax-exempt bonds. Prior to 1987, the Cherokee Tribe and other tribes used tax-exempt bonds to finance ''essential government functions.'' In 1986, the Eastern Band of Cherokee Indians, in western North Carolina, used this provision to purchase the Carolina Mirror Co. to ensure the Cherokee Tribe's long-term economic development. The Cherokees worked hard and built Carolina Mirror into the largest producer of mirrors in the United States.

Then, Congress changed the rules in the Omnibus Budget Reconciliation Act of 1987, and narrowed the definition of ''essential government functions'', and today Carolina Mirror is in default and may be forced to close its Texas operation because of a staggering monthly obligation of $300,000. This amendment would allow these hard-working native Americans to refinance their current bonds at more competitive rates. The Joint Committee on Taxation asserts that this purely technical amendment will have a ''negligible effect on the Federal fiscal year budget receipts.''

AMENDMENT NO. 587

(Purpose: Relating to repeal of bad debt reserve method for thrift savings associations)

At the end of title VII, insert:

SEC. . SPECIAL RULE FOR THRIFTS WHICH BECOME LARGE BANKS

(a) IN GENERAL.—Section 593(g)(2) (defining applicable excess reserves) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR THRIFTS WHICH BECAME LARGE BANKS IN 1995.—

''(i) IN GENERAL.—In the case of a bank (as defined in section 581) which became a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1994, the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before January 1, 1995, if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A).

''(ii) APPLICATION OF CUT-OFF METHOD; ETC.—In the case of a taxpayer to which this subparagraph applies—

''(I) paragraph (5)(B) shall apply, and

''(II) this subparagraph shall not apply in determining the amount taken into account by the taxpayer under subparagraph (A)(ii) for purposes of paragraph (5) and (6) or subsection (e)(1).''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 1616 of the Small Business Job Protection Act of 1996.

AMENDMENT NO. 588

(Purpose: To express the sense of the Senate that America's middle-class taxpayers shoulder the biggest tax burden and that only those who pay Federal income taxes should benefit from the Federal income tax cuts contained in the Revenue Reconciliation Act of 1997)

On page 267, between lines 15 and 16, insert the following:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) Congress has not provided a genuine tax cut for America's middle-class families since 1981;

(2) President Clinton promised middle-class tax cuts in 1992;

(3) President Clinton raised taxes by $240,000,000,000 in 1993;

(4) President Clinton vetoed middle-class tax cuts in 1995;

(5) the middle-class American worker had to work until May 9 in order to earn enough money to pay all Federal, State, and local taxes in 1997;

(6) the Joint Economic Committee reports that real total Government taxes per household in 1994 totaled $18,600;

(7) more than 70 percent of the tax cuts in both the House of Representatives and the Senate tax relief bills will go to Americans earning less than $75,000 annually;

(8) the Joint Economic Committee estimates that a family of 4 earning $30,000 will receive 53 percent of the tax relief under the reconciliation bill;

(9) the earned income tax credit was already expanded in President Clinton's 1993 tax bill;

(10) the fiscal year 1998 budget resolution does not make the $500-per-child tax credit refundable; and

(11) those who receive the earned income tax credit do not pay Federal income taxes but receive a substantial cash transfer from the Federal Government in the form of refund checks above and beyond income tax rebates.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that America's middle-class taxpayers shoulder the biggest tax burden and that only those who pay Federal income taxes should benefit from the Federal income tax cuts contained in the Revenue Reconciliation Act of 1997.

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AMENDMENT NO. 589

(Purpose: To allow farmers to income average over 3 years)

On page 267, between lines 15 and 16, insert the following:

SEC. 780. AVERAGING OF FARM INCOME OVER 3 YEARS.

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1986 (relating to taxable year for which items of gross income included) is amended by adding the following new section:

''SEC. 460A. AVERAGING OF FARM INCOME.

''(a) IN GENERAL.—At the election of a taxpayer engaged in a farming business, the tax

imposed by section 1 for such taxable year shall be equal to the sum of—

''(1) a tax computed under such section on taxable income reduced by elected farm income, plus

''(2) the increase in tax which would result if taxable income for the 3 prior taxable years were increased by the elected farm income.

''(b) DEFINITIONS.—In this section—

''(1) ELECTED FARM INCOME.—

''(A) IN GENERAL.—The term 'elected farm income' means so much of the taxable income for the taxable year—

''(i) which is attributable to any farming business; and

''(ii) which is specified in the election under subsection (a).

''(B) TREATMENT OF GAINS.—For purposes of subparagraph (A), gain from the sale or other disposition of property (other than land) regularly used by the taxpayer in a farming business for a substantial period shall be treated as attributable to a farming business.

''(2) FARMING BUSINESS.—The term 'farming business' has the meaning given such term by section 263A(e)(4).''

(b) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by adding at the end the following new item:

''Sec. 460A. Averaging of farm income.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act and before January 1, 2001.

Section 503 of the bill is amended on page 161, line 4 by striking ''July 31, 1999'' and inserting ''May 31, 1999.''

Mr. ROTH. Mr. President, I move their adoption.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments en bloc, were agreed to.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 577

[Purpose: To provide for the indexing of assets to determine capital gain]

Mr. ALLARD. I have at the desk amendment No. 577. I ask that the clerk call it up.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for himself, Mr. BROWNBACK, and Mr. ABRAHAM, proposes an amendment numbered 577.

Mr. ALLARD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. ALLARD. Mr. President, let me briefly explain what this amendment is all about. This is an amendment in which we address the indexing of capital gains. When we index capital gains, what we are talking about is protecting long-term investors from taxation on inflationary gains. This helps the family business, the family farm, and the family ranch. It is the family and the average American out there who owns a capital asset.

Specifically, what the amendment does is—it is pretty much the same indexing provision that was reported out of the House except that it delays the implementation of it to 2002. The holding period of the property would change from 3 to 5 years.

Just briefly, there are two other very important points that I would like to make about this particular amendment.

It is revenue neutral over 10 years, as scored by the Joint Committee on Taxation; and, No. 2, it is germane, and in fact it does blend within the current language of the bill.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition in opposition?

Mr. ROTH. Mr. President, I commend my friend from Colorado on offering this amendment. It is unfortunate that I must vote against it.

The Senator may not be aware of this, but in 1993 I introduced a bill that called for the indexing of capital assets. But today, we are not only dealing with economic issues, President Clinton has said he will veto any tax bill that includes indexing of capital gains.

I have an article from last Thursday's Wall Street Journal. The title of the article is ''Clinton Rules Out Indexing of Capital Gains in Tax Bill.'' The first paragraph says the President ''will not sign a tax bill that includes indexing of capital gains for inflation.''

We have a historic opportunity today to deliver badly needed tax cuts to Americans. I would like to provide greater tax relief, but we cannot, and ''half a loaf'' is better than ''no loaf.''

So I urge my colleagues to vote against this amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. All time has expired.

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The Clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Hawaii [Mr. INOUYE] are necessarily absent.

The result was announced—yeas 41, nays 57, as follows:

[Rollcall Vote No. 159 Leg.]

YEAS—41

Abraham	DeWine	Inhofe
Allard	Enzi	Kempthorne
Ashcroft	Faircloth	Kyl
Bond	Frist	Lott
Brownback	Gramm	Mack
Burns	Grams	McCain
Campbell	Gregg	McConnell
Coats	Helms	Mikulski
Coverdell	Hutchinson	Roberts
Craig	Hutchison	Santorum
Sessions	Specter	Torricelli
Shelby	Thomas	Warner
Smith (NH)	Thompson	Wyden
Smith (OR)	Thurmond	

NAYS—57

Akaka	Dorgan	Lautenberg
Baucus	Durbin	Leahy
Bennett	Feingold	Levin
Biden	Feinstein	Lieberman
Bingaman	Ford	Lugar
Boxer	Glenn	Moseley-Braun
Breaux	Gorton	Moynihan
Bryan	Graham	Murkowski
Bumpers	Grassley	Murray
Byrd	Hagel	Nickles
Chafee	Harkin	Reed
Cleland	Hatch	Reid
Cochran	Jeffords	Robb
Collins	Johnson	Rockefeller
Conrad	Kennedy	Roth
D'Amato	Kerrey	Sarbanes
Daschle	Kerry	Snowe
Dodd	Kohl	Stevens
Domenici	Landrieu	Wellstone

NOT VOTING—2

Hollings	Inouye

The amendment (No. 577) was rejected.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 590

(Purpose: To make the HOPE credit refundable, and for other purposes)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself, Mr. BINGAMAN, Mr. KERRY, Mr. KENNEDY, Mr. REED, Mr. DODD, and Mr. DASCHLE, proposes an amendment numbered 590.

Mr. WELLSTONE. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. WELLSTONE. This is about the HOPE scholarship program. If the tax credits will work for working families, these should be refundable credits. I ask for full support. The offset is responsible.

Everybody is under all this pressure. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 590) was rejected.

AMENDMENT NO. 591

(Purpose: To allow non-Amtrak states to provide alternative intercity transport assistance)

Mr. ROTH. On behalf of Senator ENZI, I ask unanimous consent to send the following amendment to the desk, and I ask it be considered and agreed to.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH], for Mr. ENZI, proposes an amendment numbered 591.

Mr. ROTH. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 190, line 1, strike ''(III)'' and insert ''(IV)'' and insert a new subparagraph (A)(ii)(III)—

''(VI) the upgrading and maintenance of intercity primary and rural air service facilities, and the purchase of intercity air service between primary and rural airports and regional hubs; and''.

Mr. ROTH. This has been cleared on both sides of the aisle. The amendment corrects a minor drafting error in the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 591) was agreed to.

QUALIFIED TUITION SAVINGS ACCOUNTS

Mr. MCCONNELL. Mr. President, I have come to the floor today in support of the tuition savings provision included in this bill. I believe the Finance Committee has done a thorough job providing broad incentives to help families save and provide for the education of their children.

I commend Senator ROTH and the Finance Committee for their efforts to include many of the provisions in S. 594, the College Savings Act. The Finance Committee has included language to make earnings in qualified tuition savings plans exempt from taxation as well as expanding the definition of qualified education costs to include room and board. Once implemented this legislation will reward all families who plan ahead and save for a child's education.

For the past several years, I have worked hard to make college more affordable by helping families who save. In both the 103d and 104th Congresses, I introduced legislation to make earnings invested in State-sponsored tuition savings plans exempt from Federal taxation. States have also recognized the needs of families and have provided incentives for them to save or prepay their children's education. State savings plans provide families a safe, affordable, and disciplined means of paying for their children's education.

Last year, Congress took the first step in providing tax relief to families investing in these programs. The provisions contained in the Small Business Job Protection Act of 1996 clarified the tax treatment of both the State-sponsored tuition savings plans and the participants' investment. This measure put an end to the tax uncertainty that has hampered the effectiveness of these State-sponsored programs and helped families who are trying to save for their children's education.

Mr. President, this action is long overdue. We have ignored the needs of middle-class families who have seen their income hold steady, while tuition costs go through the roof. According to the GAO, tuition at a 4-year university rose 234 percent between 1980–94.

During this same period, median household income rose 84 percent and the consumer price index rose a mere 74 percent. The College Board reports that tuition costs for the 1996–97 school year will rise 5 percent while average room and board costs will rise between 4 to 6 percent. While education costs have moderated throughout the 1990's, they continue to outstrip the gains in income. Tuition has now become the greatest barrier to attendance.

Due to the rising cost of education, more and more families have come to rely on financial aid to meet tuition costs. In fact, a majority of all college students accept some amount of financial assistance. In 1995, $50 billion in financial aid was available to students from Federal, State, and institutional sources. This was $3 billion higher than the previous year. A majority of this increase has come in the form of loans, which now make up the largest portion of the total Federal-aid package at 57 percent. Grants, which a decade ago made up 49 percent of assistance, have been reduced to 42 percent. This shift toward loans further burden students and families with additional interest costs. It is important that we not forget that compound interest cuts both ways. By saving, participants can keep pace with tuition increases while putting a little away at a time. By borrowing, students must bear added interest costs that add thousands to the total cost of tuition.

State-sponsored tuition savings plans have pioneered efforts to provide families with opportunities to save as a hedge against tuition inflation. States have established affordable tuition investment plans that guarantee parents a minimum level of investment return or guarantee a future education at today's prices. Such guarantees offer middle-class families the piece of mind that their children will be able to meet the tuition obligation and reduce the need to take on thousands of dollars in loans.

States like Michigan, Florida, Ohio, and Kentucky were the first programs to be started in order to help families save for college. Today, there are 15 States with programs in operation. An additional 4 States will implement their programs this year. Also, I am informed by the college savings network that every other State, except Georgia, which has implemented the HOPE Scholarship Program, is preparing legislation or is studying a proposal to help their residents save for college. Today, there are 730,000 participants contributing over $3.23 billion to education savings nationwide. By year end, the college savings plan network estimates that they will have 1 million participants. By 2006, they estimate that over $6 billion will be invested in State-sponsored programs.

Kentucky established its plan in 1988 to provide residents with an affordable means of saving for college. Today, 2,602 Kentucky participants have contributed over $5 million toward their children's education. I am confident with passage of this language these programs will grow dramatically.

Many Kentuckians are drawn to this program because it offers a low-cost, disciplined approach to savings. In fact, the average monthly contribution in Kentucky is just $49. This proposal rewards those who are serious about their future and are committed over the long-term to the education of their children by exempting all interest earnings from State taxes. It is also important to note that 58 percent of the participants earn under $60,000 per year. Clearly, this benefits middle-class families.

Mr. President, the Finance Committee has expanded the language to permit private nonprofit colleges to establish their own tuition savings plans as well as establishing education IRA's. This will ensure that all families have an opportunity to save. This legislation also allows individuals who invested in Savings Bonds to roll them over into the qualified State plan. This is a commonsense provision that will give those who are already saving the flexibility to invest in prepaid plans if available.

It is in our best interest as a nation to maintain a quality and affordable education system for everyone. We need to decide on how we will spend our limited Federal resources to ensure that both access and quality are maintained. It is unrealistic to assume that the Government can afford to provide Federal assistance for everyone. However, at a modest cost, we can help families help themselves by rewarding savings. This reduces the cost of education and will not unnecessarily burden future generations with thousands of dollars in loans.

Let me close by saying that I commend the work of Senator GRAHAM and his staff on the issue of tuition savings. His cooperation and hard work have ensured that this issue enjoys bipartisan support. I would also like to thank the chairman of the Finance Committee for all his efforts in making education savings the cornerstone of this package.

EXTENDING THE SMALL BLENDERS ETHANOL TAX CREDIT TO FARMER-OWNED COOPERATIVES

Mr. WELLSTONE. Mr. President, the tax bill before us includes important tax incentives for the use of ethanol. These tax incentives have been critical to the growth of the ethanol industry, which in my State is monopolized by farmer-owned cooperatives. Farmer-owned coops are now the leading producers of ethanol. They make up 60 percent of the ethanol facilities around the country. By year's end, nine plants will be in operation in Minnesota, producing 126 million gallons annually and creating 500 new jobs. Overall, ethanol contributes between $109 and $260 million yearly to the State's economy. Currently, 71 percent of the gas sold in Minnesota contains ethanol. By the end of the year, 100 percent of the gas sold in Minnesota will be blended with ethanol.

My concern today is with the small blenders tax credit. This income credit is available to ethanol producers who produce no more than 30 million gallons annually; and, it is applied to the first 15 million gallons. That's great. Targeting the credit is what we should do. Unfortunately, the credit works in such a way that cooperatives fail to get any advantage from it.

I would like to ask that when the Senate Finance Committee and the House Ways and Means Committee conference on the two tax bills, that they give serious consideration to changing the way the credit is structured so that cooperatives, like all other ethanol producers, receive the intended benefits of the small blenders tax credit. I appreciate the good efforts of my colleagues on this matter and hope they will work with me to address this technical change in the small blenders tax credit when the committees conference on the tax bills.

I see my colleague from Illinois and know her commitment to the role of ethanol as an alternative fuel. I understand you have two farmer-owned cooperatives proposed for construction in Illinois?

Ms. MOSELEY-BRAUN. The Senator is correct. The total investment is $92 million for both facilities with an expected capacity of 42 million gallons of ethanol annually. This is good for farmers and good for our rural communities. I fully support extending the small blender's tax credit to these cooperatives, and I will urge conferees to support this.

Mr. KERREY. Mr. President, I would like to join my colleagues in highlighting the importance of farmer-owned coops in the production of ethanol, and thank the Senator from Minnesota for his continued leadership on this issue. In Nebraska, two of the six ethanol production facilities are owned by farmer-owned cooperatives. These plants account for approximately one-third of the total amount of ethanol produced in my State and directly employ over 300 Nebraskans. By restructuring the small blenders credit, I am hopeful that not only would we help the existing ethanol plants in Nebraska, but that we would encourage other farmer-owned cooperatives to examine the opportunities for rural economic development provided by ethanol production.

Mr. WELLSTONE. I thank my colleagues for their words of support and look forward to working with them in the coming days to make this change happen.

RAILROAD DEFICIT REDUCTION FUEL TAXES

Mr. CHAFEE. Senator ROTH, as I know you are aware, because of the 1990 and 1993 Reconciliation Acts, our important freight railroads are forced to pay a 5.55 cents per gallon fuel tax into the General Treasury for deficit reduction. All other modes of transportation—highway, air, water—only pay 4.3 cents per gallon for this purpose. This is an obvious inequity. While reducing the Federal budget deficit is an important goal, if the transportation industry is to be singled out, the burden of achieving a balanced budget should be shared equally among all modes of transportation.

I am particularly concerned because S. 949 would transfer the deficit reduction taxes paid by highway users, including truckers which compete with the railroads, into the Highway Trust Fund. Placing additional highway deficit reduction fuel taxes into the Highway Trust Fund for highway improvements would exacerbate the already inequitable situation, placing the railroad industry at an even more unfair competitive disadvantage. In essence, the railroads would continue to contribute to deficit reduction, while their competitors would instead contribute to their own infrastructure.

The House has similarly proposed putting the aviation fuel taxes into the Airport and Aviation Trust Fund for airport infrastructure improvements as part of its tax reconciliation legislation.

This injustice against America's railroads must be remedied at our earliest opportunity. I would ask the distinguished chairman of the Finance Committee if he would be willing to seek a solution to this railroad deficit reduction fuel tax problem during the conference with the House on tax reconciliation legislation.

Mr. ROTH. I appreciate the distinguished Senator from Rhode Island bringing this matter to the attention of the Senate, and yes I am aware of this clear inequity to the railroads. This certainly should be remedied at our earliest opportunity, and I will seek an appropriate solution as we consider the treatment of deficit reduction fuel taxes during the conference with the House on this tax legislation. If we are unable to craft a solution to this problem on this bill, I will certainly strive for a solution as part of the upcoming ISTEA reauthorization legislation.

Mr. CHAFEE. I want to thank Senator ROTH for his commitment to expeditiously find a solution to this problem.

LET US NOT FORGET ABOUT THE U.S. CITIZENS OF PUERTO RICO

Mr. MOYNIHAN. Mr. President, I am pleased to state, on behalf of Senators BREAUX, GRAHAM, KERREY, CHAFEE, and myself, that none of the tax relief measures and growth incentives contained in this tax bill will have a positive impact on the 3.8 million American citizens of Puerto Rico. This result is unfair and should be corrected. The Island's economy has paid dearly as a result of provisions in the tax bills of 1993 and 1996, as revenue offsets from Puerto Rico in those bills exceed $14 billion in the next few years. Yet those bills provided no benefits to our Puerto Rican citizens.

Members from both sides of the aisle, Governors, national organizations, business associations, Hispanic-American groups and the entire Puerto Rican political community, have united forces in seeking a sensible Federal economic development tool in section 30A. This would provide viable pro growth tax incentives which will keep the Puerto Rican economy on a path of sustained growth. We should expand and extend this economic activity credit which is wage-based and promoted jobs and investment. We would urge my colleagues to correct this unfairness in Conference. If this is not possible, we will work to include this measure in legislation that comes before us at the next possible opportunity.

PROVIDE TAX INCENTIVES TO ENCOURAGE PROPERTY OWNERS TO PRESERVE HABITAT FOR SPECIES

Mr. KEMPTHORNE. Mr. President, it was my intention to introduce today an amendment to provide three new tax incentives for private property owners who want to conserve land for the preservation of endangered, threatened, and other species. But the amendments were subject to points of order because they did not have accompanying offsets. Rather than have the amendments lose on a parliamentary procedure, I have accepted Chairman ROTH's offer to work on these issues in conference. For too long, the Federal Government has relied almost exclusively on regulatory mandates and enforcement to preserve habitat for endangered species. That approach has failed to produce the kind of results we want. If we're serious about preserving our rare and unique species, and their habitat, we must make it easier for people to purchase and set aside land for species.

The amendment would have consisted of three provisions. The first provision would have provided an additional 25 percent exclusion from capital gains associated with the sale of property so long as the property is transferred to a qualified organization for conservation purposes.

Mr. ROTH. I agree with Senator KEMPTHORNE's philosophy that conservation benefits us all as a nation. In fact, I included a conservation easement provision in my chairman's mark.

Mr. KEMPTHORNE. The second incentive would have provided property owners an exclusion from estate taxes for property that is set aside in a conservation easement.

Over the past few years, as I've been working on legislation to reauthorize the Endangered Species Act, I've met with a number of farmers and ranchers and other property owners, many of whom own large tracts of land that they are willing to set aside in conservation easements to benefit species. But they are worried about the tax burden that they will leave behind for their children if they do that.

Mr. ROTH. My chairman's mark includes a provision consistent with my colleague's goals. The mark would allow a portion of the value of land

subject to a qualified conservation easement to be excluded from the gross estate. This conservation easement is a step in the right direction.

Mr. KEMPTHORNE. My amendment would have allowed property owners who grant conservation easements to exclude the value of property from estate tax. That would make it easier for families to keep their property intact and at the same time will benefit endangered and other species by preserving habitat for them.

My third incentive would have allowed property owners to donate land for conservation purposes to take an enhanced deduction based on the full market value of their property. This will provide an important incentive for property owners who have land or water that provide habitat for endangered and other species to preserve that habitat.

Over the past 3 years, I've met with many property owners who have said, ''we would be happy to step forward and preserve habitat for species and we would grant a conservation easement if there was an incentive.'' Well, this will provide that incentive.

Mr. ROTH. Under our current tax law, a deduction is allowed for contributions of a qualified conservation easement to a qualified organization.

The goal of my colleagues' amendments are well taken and deserve this Nation's serious consideration.

I will work with you in conference on these worthy goals because I share your commitment to saving endangered species, and using incentives to accomplish this goal.

Mr. KEMPTHORNE. I thank the chairman. I appreciate his willingness to work with me on these important amendments to include them in the final bill.

Mr. DODD. Mr. President, I rise today to express my support for the Revenue Reconciliation Act of 1997. First, I would like to commend the Finance Committee on the job it has done. Chairman ROTH and Senator MOYNIHAN should be praised for their efforts to craft a bipartisan bill, something that the House clearly failed to achieve in its tax-writing committee.

The Finance bill contains many good measures, including a $500-per-child tax credit, which brings much needed relief to working Americans. This bill provides tax relief for higher education, making college more accessible to millions of Americans. The underlying bill also expands Individual Retirement Accounts helping many Americans to meet the financial demands of raising a family and planning for retirement. The bill before us today also recognizes the importance providing tax relief for businesses by extending the research tax credit for 31 months, encouraging more investments in research and development.

In addition, the Finance bill provides funding for Amtrak, and creates an inner-city passenger rail fund that would help finance improvements in public transportation. This bill facilitates environmental cleanup efforts in many urban and rural areas, helping to make our country a healthier place to live.

While I appreciate the efforts of my colleagues who worked so hard to craft a bipartisan tax relief bill, I am concerned that this measure misses opportunities to provide meaningful tax relief for American families. During Senate consideration, I voted for a number of amendments to make this bill more equitable. Some of these amendments succeeded. Many did not.

In particular, I was pleased when my colleagues accepted my amendment concerning student loan forgiveness for people who choose a career in community service and public sector work. This amendment will help us to deal with the growing problem of student indebtedness.

I also supported the Nickles amendment to extend self-employment health insurance deductibility to 100 percent. This measure will prove extremely helpful to self-employed business men and women.

I was also pleased to support the Kohl amendment which creates a tax incentive for businesses to provide child care for employees.

Each of these amendments make this bill better for American families. Regrettably, other amendments that would have strengthened this bill did not succeed.

Most notably, I, along with my colleague from Vermont Senator JEFFORDS, offered an amendment that would have increased the child tax credit for most families by making it refundable for the many low-income families with little or no tax liability. It is a fair and equitable measure, one that would have tremendously helped our working families, and I am disappointed that this amendment failed.

In addition, the Daschle amendment would have invested an additional $10 billion in education and more in the child tax credit. Unfortunately, this amendment was defeated.

Finally, my colleague from Massachusetts Senator KERRY offered his own amendment to make the $500-per-child tax credit refundable against payroll taxes, a measure that would have brought much needed relief to many working Americans struggling to raise a family. Once again, an opportunity to make tax relief more equitable was defeated.

Despite my reservations about this bill, and my disappointment in the failure of several amendments, I am encouraged by the fact that today, on the floor of the United States Senate, we came together in a bipartisan manner to enact tax relief to millions of American families. I hope that the conference committee will report a bill that is both fair and equitable, benefitting working families, small businesses and family farms.

Finally, Mr. President, it is imperative that during the conference negotiations, we remain committed to preserving the integrity of the balanced budget agreement. The American people will not be served by a budget that achieves balance briefly in 2002 and then veers back out of balance afterward.

Mr. President, I am pleased to join a bipartisan group of Senators today in supporting the Revenue Reconciliation Act of 1997. It brings us much closer to enacting legislation easing the tax burden which weighs heavily on too many Americans.

PENSION PROVISIONS

Mr. GRAHAM. Mr. President, today I rise to offer my support for the pension provisions which are contained in the tax bill we are considering today. As a result of the bipartisan cooperation which has been demonstrated throughout this process, many American workers will move closer to a secure retirement. These provisions help a broad spectrum of workers and employers, and will contribute toward making pensions more available, equitable, portable and simpler.

First, the provisions will expand coverage among workers at small businesses.

The statistics concerning the lack of retirement coverage among small business workers are astounding. According to the Small Business Administration, only 13 percent of workers in businesses with less than 20 employees have pension plans and only 38 percent of workers in businesses employing between 21 and 100 employees currently have plans.

Two provisions in this bill will address this problem. This bill will encourage even the smallest of small businesses to help their employees save for retirement through IRA payroll deductions. These payroll deductions are the easiest way for workers to save for their retirement. This bill clarifies that if a small business man or woman permits IRA payroll deductions, they will not be threatened with liability under ERISA.

Small businesses will also be encouraged to establish pension plans by allowing partners and self-employed individuals to receive matching contributions under the same rules applicable to incorporated businesses. More small business owners will establish retirement plans because of this change.

Second, this bill will help women. Although women are entering the work force at a larger rate than ever before, 25 million working women still do not have pension plans—this represents nearly 3 out of every 5 women who work in the private sector. Of these 25 million women, 12 million are employed by small businesses.

Unfortunately, many of these working women have no pension plan. Many of these women would like to make contributions to an IRA, but cannot because their husband participates in an employee-sponsored retirement plan and tax law says that she cannot make

a deductible contribution to an IRA because his participation is attributed to her.

The Finance Committee bill eliminates a spouse's participation from the considerations relevant to contributing to a deductible IRA. With this provision, all Americans—working women, working men, and homemakers—will now have the opportunity to save, regardless of their spouse's participation in a retirement plan.

Because of our bipartisan work on this issue, Susan Stratton of Tallahassee, FL, will be able to begin contributing to her retirement while her husband Charles continues contributing to his corporate plan.

Susan is the owner of Care Packages, Inc., and will be able to save $2,000 per year in an IRA.

Similarly, John Pollack of Orange County, FL, will be able to begin saving for his retirement because of this bill. As the owner of Allrite-Foto, John has not made any IRA contributions due to his wife Lorraine's corporate plan involvement. If this bill is enacted, John will be able to save for retirement along with his wife.

As you can see by these two examples, this provision—championed by Senator ROTH and Senator BREAUX for many years—will be beneficial for both spouses.

Third, the pension provisions in this bill begin to address a significant need in the pension area—portability. American workers are changing jobs much more frequently than ever before. Over the course of a 40-year career, the average worker will hold seven different jobs. Yet only 50 percent of current 401k plans accept rollovers from other plans.

As a result, it has become imperative that these workers be able to transport their retirement plans when they change jobs.

This bill makes it more attractive for businesses to accept rollovers. The bill provides that a plan will not be disqualified just because funds rolled over from a new employee's previous job come from a fund which has become disqualified.

Although this is a good step, I will in coming days be pushing for more pension portability. Similar defined contribution plans should also be able to roll into each other. Money in a retirement stream should be kept there until retirement. Government plans should be able to roll into private-sector plans. Private sector plans should be able to roll into nonprofit plans and nonprofit plans should be able to roll into Government plans.

Fourth, this bill will make pensions simpler to administer. One of the main reasons employers cite for not establishing or expanding pension coverage is red tape. The Finance Committee bill eliminates some of the paperwork burden it now takes to administer a pension.

This bill asks that the Treasury Department and Department of Labor issue guidance on the use of new forms of electronic pension notification, and provides for the review of current rules to accommodate new technology.

With the help of this new Internet and telecommunication technology, pension information will be more readily available to workers and less costly for employers to produce.

Finally, this bill enhances pension security. Both businesses and workers will be helped by a provision phasing up the 150 percent of current liability limit. Under current law, companies are limited in the amount they can contribute to their employees' defined benefit plan. I believe companies should be able to increase funding of their pension plans in order to fully meet the needs of their future retirees.

Companies can better budget if they have greater flexibility in what they put in their plan—and workers are better off, because the more companies contribute, the more secure their retirement. This bill gives companies that flexibility.

Each of these provisions, as well as others I have not mentioned, will improve our private pension system. It is not all we should do to prepare for retirement in the 21st century, but it is a good start.

I have been honored to work closely with many of my colleagues in bringing about these bipartisan pension changes. Senators HATCH, GRASSLEY, JEFFORDS, BREAUX and MOSELEY-BRAUN have been instrumental in bringing about these reforms, and I would like to commend them, and others, on their efforts.

By finding this common ground on both sides of the political aisle, we are working to ensure that the American workers of today will have a more secure and prosperous retirement for tomorrow.

AVIATION EXCISE TAX

Mr. McCAIN. Mr. President, I rise to express my concern about actions taken in the reconciliation bills by the Senate Finance and the House Ways and Means Committees to modify the current aviation excise tax structure. Although somewhat different from each other, both of the proposed modifications would increase taxes on airline passengers, and represent significant changes in aviation policy.

Last year, Commerce Committee members worked closely with members of the Ways and Means and Finance Committees, during consideration of the Federal Aviation Reauthorization Act of 1996, to establish the National Civil Aviation Review Commission. The members of this Commission have dedicated themselves to developing a consensus within the aviation industry regarding the appropriate financing mechanism for the Federal Aviation Administration [FAA], and the important safety programs it oversees. Together, the committees empaneled the Commission to consider substantive policy changes to the aviation excise tax formula, and I believe that the Commission should be given every opportunity to do so. The reconciliation bill should not make substantive changes to the tax formula without the benefit of the Commission s work.

Mr. LOTT. Mr. President, I would like to agree with the distinguished chairman of the Commerce Committee, of which I am a member. The work of the National Civil Aviation Review Commission could result in a unique opportunity for an often divided aviation industry to reach a consensus on important funding issues. Congress should not force its will on the industry prematurely.

The Commission is in the process of developing legislative recommendations, and plans to complete its work soon. Unfortunately, the reconciliation process is moving faster than the ability of the Commission to reach a comprehensive solution. The Commission recently wrote to the leadership of both the Senate and House on this issue. We should ensure that the reconciliation bill, or budget rules, do not foreclose the ability to consider the commission recommendations in the future. At that time, we will have a full and fair debate on the recommendations themselves.

Mr. McCAIN. I thank the distinguished majority leader for his insight. I plan to continue to work with him and other members of the Commerce Committee to see that the budget reconciliation bill does not foreclose the opportunity for Congress to implement the Commission recommendations in the future. We must continue our efforts to ensure an adequate and stable funding source for the FAA and the safety programs it oversees.

Mr. DASCHLE. Mr. President, I would like to join my distinguished colleagues, the majority leader, the chairman and ranking member of the Commerce Committee, and the chairman and ranking member of the subcommittee, in expressing concern about the reconciliation bill preempting the work of the National Civil Aviation Review Commission. I appointed two of its members, and I would not like to see its important work undermined before it has had an opportunity to achieve a consensus to a very important issue. I believe that after the recommendations of the Commission have been submitted to Congress, we must give them every consideration.

Mr. HOLLINGS. Mr. President, I, too, would like to join my distinguished colleagues in this discussion. The leadership of the Commerce Committee worked very hard in the Senate and during the Senate-House conference to create this Commission. Congress even provided a substantial appropriation to fund its activities. The work of the Commission is extremely important. I know that my colleagues share my concern that aviation monies are not being used for aviation purposes, and we need to work to correct that. During our Commerce Committee markup recently, I expressed my desire to treat

the Airport and Airways Trust Fund differently, and many members indicated that we needed to do something different for aviation. The GAO report on airport funding suggests that the airports are in need of $10 billion, according to the airports, and $6.5 billion, according to the FAA, depending upon the type of projects included. The Airport Improvement Program is an important component of the work of the FAA. We cannot meet future growth needs without expanding our airports and modernizing the air traffic control system. The Commission work and recommendations will help us in the debate in finding ways to meet our future aviation system needs.

Mr. GORTON. Mr. President, as chairman of the Aviation Subcommittee, I would like to associate myself with the remarks of the distinguished chairman and ranking member of the Commerce Committee, as well as with those of the majority and minority leaders. An efficient FAA will be crucial if our country is to maintain its role as the world leader in the aeronautical and aerospace industries. The FAA must have adequate resources to transform itself into an efficient and productive agency. The anticipated work of the Commission should provide the Congress with valuable guidance in that respect. The proposed changes to the aviation excise taxes in the reconciliation bill should not be a signal to the commission that its ongoing work is meaningless. I intend to work with the leadership of the Commerce Committee and Senate to ensure that the future recommendations of the Commission are not prejudiced by any actions taken in this reconciliation bill.

Mr. FORD. Mr. President, I would like to add to the thoughtful remarks of my distinguished colleagues. We started the debate over how to fund the FAA last Congress when we first proposed a fee system. Senator MCCAIN and I worked very hard on the bill and the entire committee agreed that we needed a Commission to provide a blueprint for how to fund the FAA. The FAA bill last year restructured the agency and gave the FAA the ability to do some creative things. Now the Commission must give us their best advice on how to meet the needs of the FAA, or how to cut spending. Those are the dilemmas facing the Commission. I know all of us share a desire to ensure that the work of the Commission is debated and fully aired.

Mr. MCCAIN. I would like to thank the distinguished gentlemen for their remarks. The safety of the flying public and the health of an essential, vital industry are at stake. We must give the Commission a chance to fulfill its statutory mandate.

401(K) PLANS

Mrs. BOXER. Mr. President, I ask my colleagues from Oklahoma, Mr. NICKLES, and Delaware, Mr. ROTH, if they would be willing to enter into a colloquy with me about an amendment I offered last night which was adopted by voice vote.

Mr. NICKLES. I would be pleased to answer any questions that the Senator from California may have.

Mrs. BOXER. As the Senators are aware, the 401(k) has emerged as many baby boomers primary pension plan. 401(k)s now cover more than 22 million employees and invest more than $675 billion in pension assets. Many American workers now have more equity in their 401(k) plans than in their homes.

Unfortunately, Federal law is currently less protective of 401(k)s than traditional defined-benefit pension plans. A company sponsoring a traditional plan is currently prohibited from investing more than 10 percent of its assets in company holdings, such as real property or company stock. This reasonable limitation, however, does not apply to 401(k) plans.

The amendment I offered last night would extend this 10 percent limitation to 401(k) plans, enhancing pension security for millions of workers nationwide.

I want to thank both the chairman and the ranking member of the Finance Committee for their assistance in clearing this important amendment.

The amendment included a small change at the request of the Senator from Oklahoma. The provision requested by the Senator from Oklahoma would allow companies sponsoring 401(k) plans to require that 1 percent of an employee's contribution be invested in qualified employer securities.

Mr. NICKLES. The Senator has accurately described the change to her amendment that I suggested. I believe that employers should be allowed to require employees to contribute 1 percent of their 401(k) contributions to company assets. However, as a member of the Finance Committee and possible conferee on this bill, I will urge my colleagues not to increase the 1-percent cap.

Mrs. BOXER. I certainly appreciate the support of the Senator from Oklahoma. I would ask the Senator from Delaware if he, too, will work to retain the Boxer amendment in conference.

I thank the distinguished chairman of the Finance Committee, the assistant majority leader, and the ranking member of the committee for all their hard work to guarantee pension security for America's working men and women.

COMPUTER TECHNOLOGY AND EQUIPMENT

Mrs. BOXER. I ask my colleagues from Delaware, Mr. ROTH, and New York, Mr. MOYNIHAN, if they would be willing to enter into a colloquy with me regarding providing an enhanced deduction for corporate contributions of computer technology and equipment.

Mr. ROTH. I would be pleased to answer any questions the Senator from California may have.

Mr. MOYNIHAN. I would be pleased to enter into a colloquy with my friend from California.

Mrs. BOXER. As you know, the House-passed Tax Reconciliation Bill included a provision which would provide an enhanced tax deduction for corporate contributions of computer technology and equipment. This provision, authored by Congressman RANDY CUNNINGHAM, is very similar to a bill Senator CHAFEE and I introduced earlier this year. Our bill, the Computer Donation Incentive Act of 1977, provides an incentive for companies to donate new and nearly new computers and software to elementary and secondary schools.

The successful education of America's children is closely linked to the use of innovative educational technologies, particularly computer-based instruction and research. Unfortunately, however, far too many elementary and secondary school classrooms lack the computers they need to take advantage of these new educational technologies. I believe this provision will provide America's schools with the technological resources necessary to prepare both students and teachers for the technologically advanced society in which we now live.

I know that the chairman and ranking member on the Committee on Finance would like to have included the House provision in the Senate tax reconciliation bill, but due to revenue considerations were unable to do so. I hope, however, that my friend from Delaware and my friend from New York would urge the adoption of this very important provision in conference.

Mr. ROTH. I agree that this is a very important provision and I will urge my colleagues to consider this proposal in conference.

Mr. MOYNIHAN. I agree with my friend from California and my friend from Delaware, that this provision should be carefully considered and I too will work to urge my colleagues to give this proposal careful consideration.

Mrs. BOXER. I thank the distinguished chairman and ranking member of the Committee on Finance for their support of my bill and of the House provision.

SUPPLEMENTAL ENTERPRISE ZONES AND ELIGIBILITY FOR BROWNFIELDS BENEFITS

Mrs. FEINSTEIN. Mr. President, I rise to ask if the chairman can clarify for me whether this bill includes a provision that provides the ''brownfields'' benefits for supplemental empowerment zones.

As a former mayor, I am very committed to promoting economic growth in our urban area. The ''brownfields'' provision will be significant in the City of Los Angeles' effort to turn abandoned, vacant or underutilized industrial or commercial properties back into productive use. Can the chairman confirm that, under the Senate tax bill, brownfields remediation incentives are also extended to supplemental empowerment zones?

Mr. ROTH. Yes, the committee bill extends the brownfields benefits to supplemental zones as well. Section 768(c)(2) of the bill, entitled ''Expensing of Environmental Remediation Costs,'' extends the brownfields benefits to supplemental zones designated after December 21, 1994, which confers the benefits to the supplemental zones of Los Angeles and Cleveland, OH.

Mrs. FEINSTEIN. I thank the chairman for clarifying the provision and thank the committee for its work on this issues.

COMPUTER ACCESS INCENTIVE

Mr. BAUCUS. Mr. President, I want to take this opportunity to repeat my interest in including funding in the reconciliation bill which would facilitate our schools' efforts to acquire computers and become connected to the Internet.

If our students are going to be fully prepared to face the next millennium with computer skills adequate to the task of competing in a global economy, I believe we in the Federal Government have a responsibility to ensure that our schools have every opportunity to acquire computer equipment.

The House Ways and Means Committee reported a bill which includes funds for an enhanced charitable deduction for those who donate computer equipment to the schools. As you know, based on the experience I have had helping schools in Montana acquire computer equipment, I have been working on a somewhat different approach which provides a tax credit for companies that give a price discount to schools purchasing new equipment.

I ask the chairman to work with me during conference to evaluate the House Ways and Means proposals and my proposals to increase schools' access to the Internet.

Mr. ROTH. I look forward to working with the Senator.

EDUCATION INITIATIVES

Mr. GRAHAM. Mr. President, I would like to take this opportunity to thank Chairman ROTH for working on this tax legislation in a fair, bipartisan manner. In particular, this bill includes several educational initiatives that will have a positive impact not only on the people of my home State of Florida but on the citizens—of every income—in our Nation as a whole.

First, I applaud the chairman's provisions with respect to prepaid college tuition plans. Currently, 16 States offer and manage college savings programs, 5 States are in the process of implementing such programs, and the other 29 States have legislation pending or are studying the feasibility of creating these programs.

Last year, Congress clarified the tax treatment of participation in prepaid college tuition plans. The 1996 Small Business Protection Act provided that any prepaid or savings State entity is tax-exempt. The act also clarified that earnings under prepaid programs are not taxed until distribution, and—when distributed—earnings would be taxed to the student beneficiary.

Under the proposal approved by the Finance Committee, distributions from prepaid college tuition plans will be 100 percent tax-free. In addition, the definition of qualified higher education expenses will be expanded from current law. Under this legislation, tax-exempt benefits will now include room and board, as well as tuition, fees, and related expenses. Thus, families who plan ahead can lock in today's rates for almost all expenses incurred in their children's education.

The legislation will have immeasurable benefits for our Nation's families. For example, Barbara and Jack Alfonso, who live in Miami, FL, have a 10-year-old son, Adrian. Back when Barbara finished high school, her parents could not afford to send her to college. She decided to take out loans to attend secretarial school. It took her 7 years to pay off those loans, so Barbara knows what it's like to be burdened with debt.

Barbara and Jack decided that they didn't want their son to be faced with the same obstacles. So, when Adrian was 5, they invested in the Florida Prepaid College Tuition Program. They will make their last payment in October of this year.

Adrian is a good student, and he deserves the opportunity to further his education. And because his parents chose to put aside money for his future by participating in the State's tuition program, Adrian will have this opportunity. Now Adrian can become one of the first college graduates in the Alfonso family. He can rest assured that his hard work will not have been in vain—that college is not a dream for him but a reality.

As Barbara tells it: ''The best thing about this plan is that it gives me peace of mind.'' Thanks to a prepaid college tuition plan, Barbara knows that her son will be able to go to college. And thanks to this program, two hard-working parents are able to give their child what they never had. Their son will be better off than they were.

With this legislation, families throughout our Nation will be better able to plan and save for their children's education. First, parents can save for their children's education without paying taxes. Second, parents can purchase tuition at today's rates and then withdraw this money when their children begin school. Tomorrow's education can be secured at today's prices.

I would also like to thank Chairman ROTH for including a portion of my school construction tax proposal, which would assist small and rural school districts. The provision that was included in this bill will positively impact issuers of small school construction bonds. These issuers will be exempt from arbitrage rebate requirements up to $10 million. Currently, there is a $5-million limit which applies to all bonds.

With this provision, we are specifically helping small school districts to lower the cost of building new schools. I hope that this legislation is just the beginning of much more which this Congress will do to make a significant and substantial dent in the problem of school construction and rehabilitation needs.

On behalf of all of our Nation's families, I would like to thank Chairman ROTH for his efforts regarding these education initiatives. I think Barbara Alfonso says it best: ''We can't cut corners when it comes to education.'' Barbara is right. This legislation will allow us to invest in our most precious resource—our children—who are, of course, ultimately our future.

RAIL FUEL TAX

Mr. BURNS. Would the esteemed chairman of the Finance Committee be willing to enter a colloquy on the rail deficit reduction fuel tax?

Mr. ROTH. I would be happy to discuss this matter with my colleague from Montana.

Mr. BURNS. As the chairman is aware, the 1990 and 1993 Budget Reconciliation Acts imposed a 2.5-cent-per-gallon and a 4.3-cent-per-gallon diesel fuel tax for deficit reduction on railroads and highway users. Beginning October 1995, 2.5 cents of the trucking industry's deficit reduction tax was directed to the Highway Trust Fund. The remaining highway 4.3 cents remained in place for deficit reduction purposes, while the rail rate was set at 5.55 cents per gallon, also effective October 1995. As a result of these acts, the freight rail industry currently pays 1.25 cents per gallon more for deficit reduction than its primary competitors.

Mr. ROTH. The Senator is correct.

Mr. BURNS. While the Highway Trust Fund provides the financing for construction and maintenance of public roads and bridges used by trucks and automobiles, the railroad industry realizes no similar return on its tax payments. Railroads currently expend more than $7 billion annually in capital to build and maintain their own ''roads.'' These private rights-of-ways are subject to more than $400 million annually in local property taxes. While few Senators are more dedicated to the goal of deficit reduction than I, it seems that the burden of reducing the Federal deficit must be shared equally among competing modes of transportation.

The Senate Finance Committee adopted an amendment to the chairman's Mark which would transfer the 4.3-cent-per-gallon deficit reduction tax paid by highway users to the Highway Trust Fund—minus the new half-cent tax for the Intercity Rail Trust Fund—Amtrak. Additionally, the House Ways and Means Committee transferred the 4.3-cent-per-gallon tax paid by aviation users to the Aviation Trust Fund. Assuming that these amendments remain in the bills, the rail industry will be paying 5.05 cents per gallon for deficit reduction while those in competing industries will be paying nothing for deficit reduction.

Mr. ROTH. Again the Senator is correct in his assessment.

Mr. BURNS. Understanding the demands on the chairman, I would merely like to encourage him to address this situation in conference. If a solution can not be reached in this bill, I would encourage the chairman to give careful consideration to and to work toward a remedy of this situation in the tax title to the upcoming ISTEA reauthorization.

Mr. ROTH. Rest assured that the committee will give every consideration to the addressing the transportation excise tax equity matters raised by my colleague from Montana.

Mr. BURNS. I greatly appreciate the time and consideration given to me by the chairman of the Finance Committee.

PUBLIC SAFETY OFFICER SURVIVOR PENSIONS

Mr. BIDEN. Mr. President, I am pleased that the Senate has passed my amendment to make a modest change in current law. A modest change, but one which will make an enormous difference in the lives of some very special Americans—the families of public safety officers—police officers and firefighters—who have given their lives in the line of duty.

This amendment would forgive Federal tax liability on the annuities received by the families of these fallen heroes. The cost is modest—about $25 million over the next 10 years.

I would also add that this tax treatment would be the same as that for the families of fallen soldiers. In other words, my amendment gives to those who fight and die in domestic battles to keep us safe the same treatment we give to those who fight and die in keeping us safe from foreign battles.

Mr. President, again, I welcome my colleagues support for my amendment—we have stood with the cops, stood with the firefighters, and stood with the paramedics who have given their lives in service to all of us.

STATE-SPONSORED WORKERS' COMPENSATION FUNDS

Mr. BREAUX. I would like to ask a question of the distinguished chairman of the Finance Committee concerning a provision in the tax bill.

Mr. ROTH. I would be pleased to respond to the Senator from Louisiana.

Mr. BREAUX. Section 761 of the bill provides standards that a State-sponsored workers' compensation company must meet in order to be exempt from Federal income tax for future years. As the chairman is aware, a large number of the States, including Louisiana, have State-sponsored workers' compensation companies that have been operating as tax-exempt agencies for several years. It is my understanding that the standards that we have proposed for the future are intended to codify the standards that exist under present law and that a company, such as the one established by the State of Louisiana, that met these standards in prior years should be confident that it is, in fact, tax exempt under current law. Is my understanding correct?

Mr. ROTH. The Senator is correct. The committee thought it was appropriate to provide prospective application for the codification of standards which must be met for tax exemption. However, the committee expressly acknowledged the fact that a number of States had established entities that were operating as tax exempt organizations. The motivation for codifying the standards as part of the Internal Revenue Code was to help these entities and the Internal Revenue Service more easily apply the law. However, our report expressly states that tax exemption may be available to many such State-sponsored entities under present law and no interference was intended to be drawn from our action that the income of those entities was not already tax-exempt.

Mrs. HUTCHISON. Mr. President, I strongly support the provision in the bill that deals with tax-exempt status of State workers' compensation funds. Senator GRAMM and I ask unanimous consent to have printed in the RECORD the text of a letter we received earlier this month from the Governor of the State of Texas urging us to clarify the Federal tax statutes to maintain the tax-exempt status of this fund in light of the important role it plays in stabilizing the market for workers' compensation insurance in Texas.

There being no objection, the text of the letter was ordered to be printed in the RECORD, as follows:

STATE OF TEXAS,
OFFICE OF THE GOVERNOR,
June 5, 1997.

Hon. PHIL GRAMM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: I understand that the Internal Revenue Service is questioning the source of the Texas Workers' Compensation Insurance Fund's tax exemption.

The Texas Legislature created the Fund in 1991 to resolve a crisis in our workers' compensation insurance market. The Fund carries out its statutory responsibility to ensure that workers' compensation insurance is available for Texas employers in even the smallest or riskiest of businesses.

Workers' compensation insurance is not mandatory for Texas employers. Those businesses that choose to carry workers' compensation coverage for their employees now have access to a much broader variety of carriers, competitive premiums and enhanced employee benefits.

I encourage you to consider clarification of the federal tax statutes to resolve this issue. Arbitrarily and retroactively changing the tax status of the Fund would directly affect the small businesses that depend on the Fund for workers' compensation coverage, and would needlessly inject instability into what is now a healthy segment of the Texas insurance market.

Sincerely,

GEORGE W. BUSH.

Mr. GRAMM. Is it also the chairman's understanding that this provision clarifies the tax-exempt status of these funds under current law by codifying the existing standards?

Mr. ROTH. That is correct.

Mr. GRAMM. I thank the chairman.

AVIATION TAXES

Mr. ABRAHAM. Mr. President, I was wondering if Senator NICKLES and I could engage the chairman of the Finance Committee in a colloquy regarding the proposed tax on the domestic portion of international journeys [DPIJ]. As I understand the new tax, it will impose a new 10-percent tax on domestic legs of international flights. This tax hurts domestic carriers because they typically have domestic stopovers on their international flights, whereas international carriers have more direct flights without stopovers in the United States. Since flights without stopovers are not subject to the new 10-percent tax, the net result is a competitive disadvantage for domestic carriers.

Mr. NICKLES. If the Senator from Michigan would yield, I want to echo the concerns of my friend from Michigan. In fact we were prepared to offer an amendment along with several other colleagues but out of deference to the desire of the chairman to complete action on the bill, we agreed to work with the chairman. It is my understanding that the chairman of the Finance Committee is aware of these concerns and has expressed his intention to resolve this controversy in conference. Would the chairman confirm his intentions regarding the proposed tax on the domestic portion of international journeys?

Mr. ROTH. I would like to assure my colleagues from Michigan and Oklahoma that it is my intention to work with House and Senate conferees to eliminate any competitive advantages that foreign carriers may enjoy and resolve this controversy.

NET OPERATING LOSSES

Mr. SPECTER. Mr. President, on behalf of Senator SANTORUM, I would like to discuss an issue with the chairman and the ranking member of the Finance Committee relating to operating losses of a business.

The tax bill extends the carry forward period for businesses with operating losses for an additional 5 years. But the provision only applies to operating losses incurred in future years.

We are less concerned about the tax impact of allowing existing losses to expire than about the impact on companies for financial accounting purposes. Under the accounting standards, if the operating losses expire, some companies will see a major reduction in asset value.

We would like for the chairman and the ranking member to consider this issue in conference.

Mr. SANTORUM. I would like to associate myself with the comments of my colleague, the senior Senator from Pennsylvania.

Mr. ROCKEFELLER. I understand the issue raised by the Senators from Pennsylvania. I will be pleased to look at the issue in conference.

Mr. MOYNIHAN. I understand the issue raised by the two Senators from Pennsylvania. I will be pleased to look at the issue in conference.

Mr. ROTH. I will also be pleased to look at the issue in conference.

FOR AN ADDITIONAL TOBACCO TAX INCREASE

Mr. SPECTER. Mr. President, I have sought recognition to explain my vote against waiving the Budget Act on the Kennedy amendment for an additional tobacco tax increase. I have long been a leading supporter of providing adequate health coverage to our Nation's children. On the first day of the 105th Congress, I introduced legislation that would provide coverage to the 4.2 million children of the working poor, who are not eligible for Medicaid but whose parents cannot afford private health insurance. During consideration of the budget for fiscal year 1998, the President and Congress reached an agreement to provide $16 billion for health care insurance to protect our Nation's uninsured children. The Senate Finance Committee has added an additional $8 billion for children's health insurance from funds derived from a new tax on tobacco. As a result, the budget reconciliation bill now contains $24 billion for the vital purpose of providing health insurance to America's uninsured children.

The Kennedy amendment would further increase the tobacco tax by an additional 23 cents per pack. The amendment, however, did not specify how this additional tax revenue would be spent. As a consequence, the Senate could be given no assurance that any of the money generated by this new tax would provide health insurance. I believe the American taxpayer is willing to accept a reasonable level of taxation in order to provide health insurance to our Nation's children. However, with the money provided under the budget agreement and the additional funds provided by the Senate Finance Committee, Congress is fairly addressing this need.

IRA WITHDRAWALS FOR K–12

Mr. SPECTER. Mr. President, I supported Senator COVERDELL's amendment to expand the bill's provisions to allow penalty-free withdrawals from Individual Retirement Accounts for education expenses for children in grades K–12 because I believe that parents should have the maximum flexibility to spend their own money on their children's education.

I have consistently opposed the use of public funds to subsidize private school tuition for K–12 educational expenses because I have grave concerns about the constitutional issues of separation of church and State raised in such policy and because I am an advocate of public schools. As chairman of the Appropriations Subcommittee which funds the Education Department, it is among my top priorities to continue to provide increases in Federal support to the Nation's public schools. However, there are many parents who feel that it is in the best interest of their children to attend nonpublic elementary and secondary schools for a variety of reasons and in a variety of settings. I believe they should be free to spend their own resources on such expenses as they see fit.

TAX RELIEF IS FINALLY AT HAND

Mr. KYL. Mr. President, hard-working American families have not seen significant net tax relief since Ronald Reagan's first year in office as President. That was 16 years ago, in 1981. Since then, their tax burden has gone in just one direction—up. Higher payroll taxes, higher taxes on gasoline and Social Security, higher taxes on capital gains and air travel. If you manage to save something for your child's education, the earnings are even taxed.

It is no wonder, then, that the typical American family feels overwhelmed: it now pays more in taxes than it does for food, clothing, and shelter combined. That is wrong, and it has got to change. It is about to change.

Mr. President, there has really been a sea of change in Washington's approach to taxing in recent years. Remember that it was not so long ago, in 1993 to be exact, that President Clinton pushed through the largest tax increase in the Nation's history. Everyone in the country felt the bite of the Clinton gas-tax increase. Retirees even saw their Social Security benefits taxed more. The debate back then was not whether to raise taxes, but how much to raise them.

Two years ago, after Republicans gained control of both Houses of Congress, the debate changed dramatically. The question no longer was whether to raise taxes, or even whether to cut taxes. The question was how much to cut them. The debate has changed so much that President Clinton, who initiated that record-setting tax increase 4 years ago, and who vetoed tax relief just 2 years ago, now tries to claim the tax-cutting mantra as his own.

We began last year to make some incremental progress in offering tax relief. The adoption tax credit, for example, was enacted, as was an increase in the Social Security earnings limitation and new tax incentives for the purchase of long-term health insurance. That was after President Clinton vetoed a far more substantial tax-cut package in December 1995.

The bill before us today takes yet another step in the right direction. When signed into law, it will provide more tax relief than any other bill in 16 years. And three-quarters of the total relief provided by the bill will go to families with annual income of less than $75,000. Again, that is families with income under $75,000 a year that would benefit most.

Make no mistake, it provides nowhere near the level of relief that American families need. The net tax cut of between $77 billion and $85 billion over 5 years represents just 1 percent of the amount that the Treasury would otherwise collect over that period. But given the constraints on tax relief that President Clinton imposed in this year's budget agreement, it is probably the most we can do. It is, in my view, merely a downpayment on the amount of tax relief that we will continue to seek next year and the years after that.

Mr. President, I opposed the budget agreement a few weeks ago, in large part because it so severely restricted the amount of tax relief that we could provide this year. I believed that we should have held out for a better deal for the taxpayers, but a majority of both Houses disagreed, and therefore we have to find a way to live within the constraints the deal imposed. I must say, however, that I believe the Finance Committee has done a good job with the limited resources it had to work with.

The bill includes a $500-per-child tax credit for families with children under the age of 17. The credit would become fully effective next year; it would be limited this year to $250 for every child under the age of 13.

The bill also provides important help to parents who are struggling to find a way to pay for their children's college education. It offers a new $1,500 HOPE tax credit, new tax-preferred Education Savings Accounts, and something that the budget agreement did not contemplate, a new deduction for student-loan interest payments.

These provisions alone—the education-related and child tax credits—make up 82 percent of the tax relief provided by this bill—82 percent. An analysis by the accounting firm of Deloitte & Touche estimates that a married couple with two children and a household income of $35,000 a year would see its tax bill slashed by 40 percent—to $1,573 a year, down from $2,625 now. If one child were in college, the tax relief would rise to 78 percent.

The bill does some other good things as well. It reduces the capital-gains tax rate to 10 percent for individuals in the 15 percent income-tax bracket, and 20 percent for other taxpayers. It provides a capital-gains exclusion for homeowners—up to $250,000 for single taxpayers, $500,000 for married couples. Given that more than half of all taxpayers reporting capital gains have incomes under $50,000—including many seniors who depend upon income from their life-long investments to support them in their golden years—we can be sure that the benefits of these capital-gains reductions will flow to middle America.

And with history as a guide, we know that the Treasury will benefit from a capital-gains tax cut as well. Between 1978 and 1985, for example, the top marginal tax rate on capital gains was cut by almost 45 percent—from 35 percent to 20 percent—but total individual capital-gains tax receipts nearly tripled—from $9.1 to $26.5 billion annually.

When capital-gains tax rates are too high, people need only hold onto their assets to avoid the tax indefinitely. No sale, no tax. But that means less investment, fewer new businesses, and new jobs, and—as historical records show—far less revenue to the Treasury than if capital-gains taxes were set at

a lower level. Just as the Target store down the street does not lose money on weekend sales—because volume more than makes up for lower prices—lower capital-gains tax rates can encourage more economic activity, and in turn, produce more revenue for the Government.

With that in mind, many of us believe that the capital-gains tax rate should have been cut deeper—some wanted an earlier effective date, too—but the die was cast against more capital-gains relief when the budget agreement passed earlier this month. Still, even the modest reduction in this bill will begin to unlock the sizable amount of assets currently locked up in the economy because of high tax rates. The American Council for Capital Formation estimates that it will lead to the creation of as many as 150,000 new jobs a year.

The bill also enhances the ability of individuals to save for retirement in IRA accounts. More Americans would be allowed to save in traditional IRA's, including homemakers who have been precluded from participating merely because their spouses are active participants in employer-sponsored plans. Non-deductible contributions of up to $2,000 to new IRA plus accounts would be allowed for anyone; distributions from the accounts would occur on a tax-free basis.

DEATH TAX RELIEF

The legislation includes modest death-tax relief—a phased increase in the unified credit from $600,000 today to $1 million by 2006. An additional $1 million exclusion is allowed for qualified family owned businesses and farms.

Mr. President, although the death-tax provisions represent steps in the right direction, they are totally inadequate to solve the problems associated with the tax. The unified credit has not been adjusted since 1987, when it was set at $192,800, for an effective exemption of $600,000. Had it merely kept pace with inflation, the exemption would now amount to about $840,000. By the time the $1 million exemption is fully phased in in 2006, inflation will have further eroded its value. The family business exclusion is so complex and establishes so many hurdles for families to meet before they could qualify for relief that few families will likely see any relief at all.

And it is family owned businesses, particularly those owned by women and minorities, that are in the greatest need of relief from death taxes. Instead of being able to pass a hard-earned and successful business on to the next generation, many families have to sell the company in order to pay the death tax. The upward mobility of such families is stopped in its tracks. Proponents of this tax say they want to hinder concentrations of wealth. What the death tax really hinders is new American success stories.

Yet, the death-tax provisions in the bill do not save Americans from having to engage in costly estate-tax planning. They provide little in the way of substantive relief. And they likely do little to promote stronger economic growth.

I know that we are not going to be able to do enough this year given the constraints of the budget agreement, so further progress with respect to death-tax relief will have to wait until next year. But we should commit now to seeking that relief when the next opportunity arises.

DEPRECIATION RECAPTURE

There are two other parts of the bill that I hope we can correct this year, hopefully before the bill emerges from the House-Senate conference committee in a few weeks. The first deals with the tax treatment of capital gains earned from the sale or exchange of depreciable real property. Such gains would be taxed at a maximum rate of 24 percent, compared to the lower tax rates that would be applied to gains earned from nondepreciable real estate and other assets.

Most of us are well aware of the significant unlocking effect that a capital-gains tax cut would have: Not only would it stimulate savings, investment, and job creation, but, as I indicated before, historical evidence shows that it would result in increased revenues to the Treasury to assist with deficit reduction. The capital-gains relief recommended in the tax bill mark is a step in the right direction. But unless the reach of that relief is extended to depreciable real property, we cannot ensure that the full benefit of a capital-gains tax cut is realized throughout the economy.

Establishing disparate tax treatment for investment and business real estate would provide little incentive for individuals to sell investment properties, or to recapitalize and modernize multifamily housing, industrial properties, office buildings, retail properties, or single-family rental homes. It would provide little, if any, stimulation in what amounts to a substantial sector of the Nation's economy. Moreover, taxing such property at rates higher than for other assets would establish a bias in the Tax Code that must be avoided.

I would note that the Finance Committee modified the bill to reduce the tax rate, from the 26 percent originally recommended, to 24 percent. But we ought to make sure that by the time the bill reaches the President's desk, depreciable real estate is on par with other types of investments.

CHILDREN'S HEALTH INITIATIVE

Mr. President, I am also concerned about the tobacco-tax provisions of this bill. I realize that the tax is intended in large part to raise additional revenue for the children's health-insurance initiative. Yet, most people recognize that an increased cigarette tax would lead to lower cigarette consumption—in fact, discouraging smoking is one of the prime objectives of a tax increase. But if smoking declines, so do cigarette-tax revenues. The proposal thus creates an expensive new program, the costs of which are likely to increase rapidly, and yet the intended revenue stream is by its very nature designed to dry up. This method of financing the children's health initiative will simply not work over time.

My hope is that the financing mechanism will be modified in conference. I am not prepared, however, to vote against the bill as reported by the Finance Committee on account of that flaw and deny millions of Americans the first significant tax relief they have seen in 16 years.

Mr. President, this bill includes many good provisions: Education tax credits, the family tax credit, IRA incentives, capital-gains, and modest death-tax relief. It extends the work opportunity credit, the research tax credit, and the exclusion for employer-provided educational assistance. Although there are some flaws in the current version, we ought to seize the opportunity to enact these provisions as a downpayment toward the ideal tax package.

I support the bill as it came out of the Finance Committee.

Mr. ROBB. Mr. President, I rise to oppose the tax bill before the Senate. Although I supported the budget resolution which allowed for this bill to proceed, I did so to advance the spending cuts that I voted for and the Senate passed earlier this week. I have consistently stood for the proposition that we shouldn't be reducing revenues until we balance the budget, and I will keep that commitment today.

While I have supported a number of amendments that I felt would make this bill a better package, even if all those amendments had passed, I'd still be opposed to cutting taxes while we still have a budget deficit. Nonetheless, I understand that it is difficult for elected legislators to resist the temptation of tax cuts, and I do not discount the popular appeal of a number of the measures before us, nor do I quarrel with the public demand for them. However, sound fiscal policy compels me to oppose even the tax changes I might otherwise support until such time as the Federal budget actually reaches balance.

By passing and enacting this tax bill, or any other, we singlehandedly undo the hard work we did in 1993 to finally bring annual budget deficits under control. We've made dramatic progress, bringing down annual deficits from $290 billion in 1992 to an expected $60 billion this year. Now, on the precipice of balancing the budget, we are going to pass a tax cut bill which takes us in precisely the opposite direction. While I understand that these tax cuts are provided for in the context of a balanced budget plan, no one can argue that they will increase the deficit and the debt between now and the year we expect to get to a balanced budget, if we get there at all.

Not only will this bill increase the current deficit and the long-term debt,

the out-year costs will come due at a time when the costs of our entitlement programs begin to swell due to the retirement of the baby boom generation. From now until 2030, the number of individuals who will qualify for these programs will double, going from 35 million to 70 million. Even if we didn't enact this tax cut, all revenues we collect would be needed just to fund entitlement programs and interest on the debt by 2012, leaving only borrowing to cover defense and discretionary investments in human and physical capital. Enacting a tax cut which doubles in cost every 5 years hardly seems an appropriate course to follow given the demographic challenges we confront early in the next century.

This tax cut would not have been as damaging in the future were we likely to make some of the long-term structural changes in our entitlement programs that would have sufficiently restrained the growth of these expenditures in the future. By abandoning a legislative change for a more accurate measure of the cost-of-living adjustments and the likely elimination of any eligibility changes in Medicare by the time the spending measure becomes law, we compound our long-term fiscal problems with this tax cut.

Mr. President, the truth is that even if we were in budget balance today and for the forseeable future, I couldn't support this particular tax bill. The fact of the matter is that the tax bill before us does little or nothing to simplify the tax code, fails to adequately encourage new savings and investment, and is structured in a way that masks its long-term costs. Instead, it is largely driven more by political payoffs to special interest groups and polling data, rather than rational tax policy.

The child tax credit has been roundly denounced by economists as doing little more than encouraging additional consumption, something we clearly ought not to be encouraging at this point given our robust economy. At least the Senate retained the provision that required that the tax savings be saved for education expenses for those with children between 13 and 16, and I commend my colleagues, including Senators BREAUX, KERREY, and LIEBERMAN, who have fought so hard to ensure that the child tax credit provides some economic value by requiring that it goes to savings and investment.

Many have claimed that both the capital gains provisions and new individual retirement accounts will encourage additional savings and investment, and I would like to believe that is the case. However, the capital gains benefits fail to differentiate between those gains from long-term investment and those from stock speculation, and the new backloaded IRA's will likely result in simply a shift of existing savings to a tax deferred vehicle, resulting in compounding revenue losses over time.

Compounding revenue loss will also result from the structure of the estate tax relief provisions in this bill. I understand the burden these taxes cause for some families, particularly those with family owned farms and businesses, but the slow phase-in of increases in the current $600,000 exemption amount guarantee that the true cost of the tax change won't show up until after 2007.

Mr. President, the most difficult part of opposing this tax bill for me has to do with the education incentives included in this bill. From my days as governor of the Commonwealth of Virginia, I've made education my top priority, pumping over $1 billion of new funds into education during my tenure as governor without a tax increase. I simply believe that the education of our children is the most important function of government at any level. Because of this commitment, I applaud the President's effort to increase access to education.

I am not opposed to commiting additional resources to education, but my concern about these tax provisions is that they are not likely to encourage students to get a higher education. For the most part, they would simply subsidize those who would have attended anyway. In addition, most education experts believe these tax provisions could result in an increase in tuition costs as institutions use the tax savings to increase their costs, potentially making education expenses even higher for students who can't qualify for these new tax benefits. It also seems to me that those who benefit from these education incentives ought to have some obligation of community service, a cause I have long championed.

In summary, Mr. President, I voted earlier this week for the spending cuts in the first Reconciliation bill because I believe that deficit reduction should be our No. 1 priority. It is for this same reason that I oppose this legislation on principle and for the substantive policy reasons I have outlined. I understand that it is politically difficult in our day and age to resist the siren song of tax cuts. But I hope that those who intend to support this tax package will be prepared to answer for their vote when the revenue losses begin to mount and prevent our budget from staying in balance over the long term.

With that, Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I oppose this bill, and I hope that it will be vetoed by the President if it emerges from the House-Senate conference in this unacceptable form. The last thing the American people need is a trickle-down tax relief bill that offers plums to the wealthiest individuals and corporations in our society, and crumbs for everyone else.

Clearly, we need to give tax relief to families, we need to encourage investment in education, we need to encourage investment in small businesses, we need to grant relief from the hardships that are sometimes caused by the estate tax.

The Republican plan takes each of these legitimate points and misuses them as excuses to give enormous tax cuts to the well-heeled and the powerful and it does so as far as the eye can see. This plan violates the fundamental principles that any tax bill must meet: tax fairness and fiscal responsibility.

The Republican bill claims that it will give fair tax relief to families, but the Republican child credit is designed to exclude large numbers of low- and middle-income working families. Forty-seven percent of all American children would not be eligible for the child credit under the Republican proposal. An additional 8 million children would be eligible for only a partial benefit. Clearly, the Republicans have gerrymandered their credit to save money by denying it to as many working families as possible. Yet these are the families who need help the most. Our Democratic proposal offers all of these families an honest tax break. The Republican proposal is a let them eat cake tax break.

I also oppose the education provisions of the Republican bill because they are skewed toward the highest income taxpayers. These Republican provisions clearly violate the firm commitment made under the budget agreement on tax benefits for higher education. The letter signed by NEWT GINGRICH and TRENT LOTT specifically states that tax relief of ''roughly $35 billion'' will be provided over 5 years for post-secondary education, and that the education tax package ''should be consistent with the objectives put forward in the HOPE scholarship and tuition tax proposals contained in the administration's fiscal year 1998 budget to assist middle-class parents.''

The administration's proposal had two goals: to help middle-class families during the critical years while students are in college, and to encourage lifelong learning. Students and families across the Nation are concerned about escalating tuition, and this bill does not do enough to help them.

The Republican bill is flawed in another major respect in this area—it utterly fails to address the need to help workers expand their skills and education. We need to give a real benefit to teachers, nurses, auto mechanics, and all others in jobs that need continual upgrading of skills. The workplace depends more and more on highly trained workers. To sustain a strong economy, we must invest in ongoing education throughout life.

The bill also provides a disproportionate education benefit to high income families. It contains three separate provisions to encourage savings for college, at a total cost of over $7 billion over the next 5 years. Lower income families do not have the luxury to save as much as higher income families do, and will not be able to take advantage of these provisions.

I also strongly support funding for crumbling schools. The deterioration of hundreds of schools across the United

States is a disgrace. But the Republican bill provides only token help. It offers only Band-Aids to put over leaking roofs.

Similarly, the massive capital gains tax breaks and massive estate tax breaks are also tilted heavily to the wealthy. Largely because of these provisions, more of the benefits of the Republican plan go to the top 1 percent of taxpayers than go to the bottom 60 percent of the taxpayers. Under the Republican plan those who are already well-off are given tens of billions of dollars in unwarranted tax breaks, while those who are struggling are ignored.

Finally, the amount of the Republican tax cuts will explode in the years after 2002, and the deficit will increase enormously. The Center on Budget and Policy Priorities has estimated that the cost of the Republican proposal will increase by between $500 and $600 billion in the 10 years following the current budget period. It will be nearly impossible to balance the budget in those years if this Republican tax giveaway is enacted into law.

The Republican plan is a Trojan horse for giving tax breaks to the wealthy. If we had no tax bill, it would be better than this trickle-down bill.

Mr. FEINGOLD. Mr. President, I intend to vote against this tax bill.

Although I voted for the budget resolution which was designed to bring us to a balanced budget within the next 5 years, I have consistently said that we should actually achieve a balanced budget, before enacting any sweeping new tax cuts. As attractive as new tax cuts may be, I think our first fiscal obligation is to eliminate the deficit. We shouldn't ask our children and grandchildren to foot the bill for our program spending or our tax cuts.

Having said that, let me address several other issues. If we are going to have tax cuts before the budget is actually balanced, then we should focus on the kinds of cuts that at least have some potential to help enhance economic productivity and increase revenues—tax changes that arguably will increase income and resulting revenues will help move us toward a balanced budget.

For these reasons, I have indicated that if we are to have tax cuts before the budget is in balance, we should limit them to changes that will stimulate economic growth. A number of my constituents have presented me with strong arguments that some reductions in the capital gains and estate taxes will enhance economic productivity and growth, and I have been willing to support capital gains and estate tax changes if crafted in ways that target the benefits so as to stimulate growth and economic activity. For Wisconsin, this means, in particular, that capital gains and estate tax changes should be targeted to help family farms and other smaller family businesses that are passed down from one generation to the next.

Arguments for certain types of education tax cuts and child tax credits are not as persuasive. And they become less so when they are not available to those families who might most need such relief. If we are going to provide tax cuts to families with children, then we shouldn't exclude millions of working families with lower and moderate incomes. Over 565,000 kids in Wisconsin, nearly 40 percent, live in families that will not receive the tax credit.

Altogether, as desirable as tax cuts might be, we need to keep our focus on balancing the budget first, then consider tax cuts. American families will benefit enormously by the Federal Government bringing down the deficit and achieving a balanced budget. Anything that diverts us from that course should be resisted until we have finished the job.

Finally, if we must have tax cut legislation as part of the budget agreement, it ought to be both fiscally responsible and fair. This bill fails on both counts. The tax cut bill is heavily back-loaded. While costing $85 billion over the first 5 years, the plan will cost close to $60 billion annually once it is fully in place. That kind of exploding cost moves us away from a balanced budget, and puts us back on the track to rising deficits. It is ironic that those who shout the loudest about the need for a balanced budget amendment to our Constitution are among the biggest supporters of a tax bill that is nothing less than a budget buster.

The tax plan also fails the test of fairness. A package of tax cuts, even one targeted toward economic development, need not be skewed to the wealthiest. Unfortunately, this measure is. According to the tax watchdog group Citizens for Tax Justice, over half the proposed tax cuts in the bill go to the top 5 percent of all taxpayers. And while the 40 percent of families with the lowest income receive no tax benefit, the top 1 percent receive an average benefit of nearly $16,000.

Mr. President, let me emphasize my firm belief that our highest priority must be to balance our Federal budget before we cut taxes. We have come too far and worked too hard to bring our deficit down to jeopardize that effort with a fiscally irresponsible tax cut bill. I support the bipartisan balanced budget agreement negotiated by the congressional leadership and the White House, but this tax package is not consistent with the spirit of that agreement, and needlessly risks the progress we made in the reconciliation package we just passed.

Mr. HATCH. Mr. President, I rise today to speak in strong support of the historic tax relief plan, the Revenue Reconciliation Act of 1997, that is before the Senate today. Change has finally come to Washington and the fruits of that change are beginning to be realized. Who would have thought that 3 years ago that the American people would be receiving a $85 billion tax cut today, especially after the huge $265 billion tax increase that President Clinton pushed through in 1993?

It is a proud day for this body and for the American people to finally witness a Congress with the courage to enact a plan to restrain Federal spending and balance the budget. Also very important is the savings that will be passed on to the American people in the form of tax relief. One thing we easily forget is that tax revenues belong to the taxpayers. This historic bill will simply return the taxpayers' own money back to them.

Mr. President, important to this debate is how this tax package is being received and the work that has gone into making this bill a good piece of legislation. This bill was reported out of the Finance Committee with overwhelming bipartisan support, and I hope that there is overwhelming bipartisan support for its final passage. I want to commend my colleague and chairman of the Senate Finance Committee for the balanced, bipartisan bill he spearheaded.

Mr. President, working families in this country do not take the paying of taxes lightly. How could they? They pay payroll taxes, income taxes, property taxes, and other taxes. In addition to the amount of taxes taken out of every paycheck, families reconcile what income taxes they owe to Uncle Sam every April 15, and millions must send a check to the government for additional taxes. The American taxpayers understand and realize that their tax payments go to providing needed Government benefits and to support the freedoms we enjoy. However, enough is enough. It is time to cut the fat out of Government and lower the Federal tax burden. And, it is time to reduce the burden of budget deficits on taxpayers, mortgage holders, small businessmen, students, and all others having or needing loans. It is time to stop passing off the burden of current spending onto our children and grandchildren.

Mr. President, this tax relief plan contains significant tax cuts in a variety of areas. I will not take the time to comment on every provision and change in the bill. However, I would like to comment on a few of the main areas of tax relief which I have long advocated.

First, families with children will receive a $500 per child tax credit. Raising children in today's world becomes more expensive each year. This $500 credit will put more money in the hands of parents to help them better afford the high cost of raising children. It's real money back into the bank accounts of American families.

Second, this bill would provide a number of proposals to ease the burden of paying for college. I hear again and again about the high cost of colleges and universities. And, I have some personal knowledge on this point, Mr. President. I not only put myself through both college and law school, I have also, as a father, put my six children through college. I know the sacrifices that are necessary.

This tax bill would provide a tax credit for tuition expenses, a deduction for student loan interest, and an expansion of the current pre-paid tuition programs. And, important to elementary and secondary school teachers, the bill contains a provision to remove from the 2-percent itemized deduction limitation educational expenses related to furthering the skills of the teacher. Teachers have great influence over our children. Well trained teachers are critical to preparing our children for the challenges of the future.

Third, this bill contains important tax cuts to stimulate economic growth and to further the creation of jobs. I have long been an advocate of reducing the tax on capital gains. During debate this week, we have heard a great deal of discussion about the rich versus the poor and who gets what out of this tax bill. Let me make it clear that everybody benefits when jobs are created through economic growth. A capital gains tax cut creates jobs and economic growth. Government investment is limited in what it can do to help people economically. Encouraging private sector investment will foster the most efficient and effective ways to better the economy. I firmly believe that the capital gains tax relief in this bill is the most important thing we can do for economic growth in this country.

Expanding an existing business, starting a new venture, or bringing a new invention to market requires capital investment to make happen. Tax policy has a tremendous impact on the amount of capital investment. Under the current law, gains from capital investments are taxed twice, once when the income is earned and again when that income is distributed to the shareholders. Cutting the capital gains tax rate will encourage more investment which will translate into the creation of more jobs. This change is absolutely critical to maintaining a strong economy well into the future.

I am also pleased to see relief from the death tax in this bill. Nowhere is the damage of onerous taxation more evident than our current estate tax. It is an inefficient tax that really should be abolished. Families should not have to face a tax bill that forces the involuntary sale of assets shortly after putting a loved one to rest. I hope that we can increase exemption from this onerous tax as quickly as possible.

Mr. President, another critically important provision in this bill is the $8 billion in additional money for children's health insurance. This is important for the most vulnerable of our citizens—low-income children. The future of this country lies with our children. We cannot ignore the gap in our health care system that does not currently provide vision or auditory screening, or other preventive health care. The provisions adopted by the Finance Committee, and ratified by the full Senate by an overwhelming vote, are significant and will help address these yet unmet needs in a responsible manner. I applaud my colleagues for their support of this important program.

Mr. President, there are a number of other tax relief provisions in this bill and also many other tax simplification provisions that are very important. I personally wish we could have done more in many of these areas.

But, the fact that we are passing this legislation today, and the promise of the President that he will sign it into law, means that the bill has been a bipartisan effort. As such, it is a compromise and is not perfect from any one Senator's point of view. If you polled all 100 Senators, I am sure each of us would mention provisions we would like to have written differently.

There were a number of amendments offered to this bill that I support and would have liked to vote for. However, when anyone participates in a negotiation and becomes a party to an agreement, he or she cannot willy-nilly support changes to that agreement just because you happened to like someone else's idea better. It stands to reason that you cannot persuade others to compromise if they cannot expect your adherence to whatever agreement is reached. I gave my word to Chairman ROTH and to my colleagues on the Finance Committee to maintain the integrity of the compromise bill that we passed out of the Finance Committee on a strong bipartisan basis. I am also constrained from voting to further increase the cigarette tax even though it could be used to finance laudable objectives in childrens health or to increase the deduction for health insurance premiums paid by those who are self-employed.

Of course, there are also some provisions in this bill that I am not enthusiastic about and would cheerfully drop were they not part of the agreement.

But, taken as a whole, this tax package is a good mix of tax relief provisions that will go a long way to lower the average American families' tax burden. This is an historic piece of legislation, and I am proud to support its passage.

Mr. BINGAMAN. Mr. President, I rise today to comment on the tax bill we are debating, S. 949, the Revenue Reconciliation Act of 1997. This bill is not the bill I would have preferred if I had written all of the details, but it has many redeeming sections which I think do benefit New Mexico and the Nation as a whole.

I want very much for New Mexicans to get needed tax relief. We have a strong economy and are within reach of a balanced budget. It does seem to me that the tax burden of many New Mexicans and others is higher than it needs to be—and while this is not structured the way I would have preferred it—I will support final passage of S. 949 because it does move us further in a positive direction, than it does negative. This bill expands IRA's in a way in which nearly 90 percent of our working population will be eligible for these accounts, in contrast to just 70 percent today. Also, this bill provides both capital gains and estate tax relief, phased in in incremental steps, but nonetheless important to the overall investment climate of the Nation. I hope that a great portion of that investment and economic activity gets directed toward and takes place in New Mexico.

This bill contains about $32 billion in education provisions which will be of benefit to many New Mexicans, particularly those who need support for college tuition. In addition, over 45 percent of New Mexico's families paying taxes of $1,500 or more will be eligible to take advantage of the HOPE scholarship. And while I would have preferred that this figure be far higher, approximately 51 percent of dependent children in New Mexico will be eligible for some portion of the per child tax credit. Another important accomplishment in this bill is that it provides resources to help cover child health insurance for the 10.5 million uninsured kids in America by raising the tobacco tax by 20 cents per pack.

There are other provisions in S. 949 that are worthy of support including permanent extension of the tax credit for employer provided educational assistance which many New Mexican workers and firms have very much wanted. This bill also provides for an exemption from the 2 percent miscellaneous work provision of the Tax Code for hard-working, dedicated teachers who spend their own money on education technology materials and who should be able to fully expense these costs on their tax returns.

However, this bill is far from perfect. S. 949, which provides for an $85 billion net tax decrease, does not provide for the kind of distribution of benefits across our society that I would have preferred. Although the Finance Committee did a far better job of making the tax cuts fairer than did the House Ways and Means Committee, I would have preferred the Democratic alternative which was offered yesterday by Senator DASCHLE.

The bill we are passing today—and which I plan to support on final passage—still hands the lion's share of tax relief to the wealthiest 1 percent of Americans, more than the combined lower 60 percent will receive. By contrast, if we had passed the Daschle bill, working families would have received almost twice the tax relief provided in the Finance Committee plan.

Furthermore, the Democratic proposal had many targeted tax relief measures which would have done much more for small businesses and small farms than the Republican bill achieves. In education, the Democratic amendment would have provided working families more opportunities to help educate their children, rebuild schools and send their children to college.

Perhaps most importantly, the Democratic bill was the more fiscally responsible of the two alternatives.

One of my major concerns about S. 949 is that the backloading of estate tax provisions, capital gains provisions, and particularly IRA provisions will balloon the budget deficit enormously just after we finally achieve the discipline to bring the Nation's spending and income into balance.

Let me explain a bit about my concern about the IRA provisions. I completely support the notion that the Nation needs more savings. This will help generate more capital for long-term investment and growth. But I object to allowing only the wealthiest in our society to have the tax incentives and tax havens to save. We should provide incentives across the board—and make sure that all sectors of our society are getting some degree of retirement savings in place. This bill does not do this. In fact, this legislation is a radical departure from our current retirement savings policy which at least purports to establish a level playing field for both high income and low income workers.

Unfortunately, the Finance Committee tax proposal contains two IRA provisions which are at fundamental odds with each other and represent the Cain and Abel of retirement savings policy. On one hand, the bill makes an important contribution to strengthening the national savings system by doubling the income eligibility for deductible IRA's. The proposal makes deductible IRA eligibility available for 90 percent of the population instead of the 70 percent now eligible.

Under this better side of the S. 949, deductible IRA's will be available to everyone with less than $100,000, joint filers, of income. And as is the case with current law, even those with incomes above $100,000 can still make deductible IRA contributions, as long as they have no other employer-sponsored pension plan.

It is also important to understand that under current law, people who have employer-sponsored retirement plans can still make nondeductible contributions to IRA accounts. These people can put an extra $2,000 a year away so that this money can accrue and compound tax-free until retirement. This tax-advantaged savings opportunity provides significant benefits to those who make after tax IRA contributions. So far so good.

But Senator ROTH's IRA Plus proposal, in contrast to the IRA expansion provisions, is a bad step for us to take. A radical departure from past retirement savings policy, IRA Plus overwhelmingly benefits the rich. It also creates a slippery slope towards tax-free havens for other retirement programs and blows a very large hole in the Federal budget deficit in future years. The fact is that because tax advantages in the other Roth provisions are available to both those under $100,000 income levels as well as those at any income level who don't have an employer-sponsored pension plan, only those above $100,000 income levels and who actually have employer-sponsored plans benefit from IRA Plus.

Because all distributions from these IRA Plus accounts are tax free, they provide a certain group of wealthy savers a home grown version of a Swiss bank tax haven. If these IRA Plus accounts are established, there is no doubt that they will be a terrific deal for those who participate. But it's not fair and not good policy to provide a tax windfall to the rich and do nothing for those who are struggling to save smaller sums; those less wealthy taxpayers will continue to pay tax on any distributions.

Furthermore, IRA Plus accounts create a troublesome benchmark vis a vis other savings vehicles. It is reasonable to ask that if IRA Plus accounts are tax free, then why not 401(k)'s or regular IRA's or the Simple Plan or corporate defined benefit programs? It would be terrific if all savings vehicles were tax free, but the fact is that the IRA Plus program alone—given the tremendous backloading in it—will blow a huge hole in the budget deficit in future years.

While the IRA provisions in the Finance Committee tax bill start out costing just $3.3 billion in the first five years, the cost surges to $20.5 billion in the next five years and then to an estimated $88.5 billion in the following ten years. Most of this backloading comes from the establishment of IRA Plus accounts. Furthermore, the irreversibility of this backloading will tie the Nation's hands just as the crush of retiring baby boomers forces very real costs on the Federal Government.

We should think very carefully about the consequences of setting up these IRA Plus accounts. I very much hope that when this bill goes to conference, the conferees will tread carefully and will reconsider this very troublesome provision.

I have other concerns including the signals that I think are being sent to hard-working New Mexican families that you have to have a high level of income and children to fully qualify for the child tax credit we are providing in this bill; 70 percent of New Mexico tax filers report less than $30,000 in annual income, 45 percent have less than $15,000 income. It is obvious that many, many New Mexico children will not be able to benefit significantly from the child tax credit.

Many here attempted to offer amendments which I supported and which would have made the $500 per child tax credit refundable against payroll taxes; or in a different approach, would have allowed tax filers to get their full EITC credit and then figure the per child credit. Either of these would have ensured that millions more children around the Nation and more than 250,000 New Mexico children would have benefited from this provision.

Overall, S. 949 delivers a better package of education, health, and child care spending initiatives and various tax relief provisions than the House bill. I wish we had done better and hope that the conferees will struggle to produce an even better bill than this, rather than dumbing this down to many of the worst provisions in the House companion bill. I yield the floor.

Mr. REED. Mr. President, I rise to express my concerns with the tax bill passed by the Finance Committee, and to express my support for the Democratic alternative. I believe the Finance Committee bill is seriously flawed, and will put us on a path to exploding deficits, rising inflation, and future economic hardship. In a time when we are asking our seniors to absorb $115 billion in Medicare cuts, I think it is irresponsible to enact the large, across-the-board tax cuts that are contemplated in this legislation—tax cuts that will add to the pain of balancing the budget by the year 2002.

Of particular concern is the fact that these tax cuts will disproportionately benefit the wealthiest Americans who have already benefited from the unprecedented performance of our economy and stock market over the last several years. Specifically, 42.8 percent of the tax cuts will go to the top 10 percent of income earners, those who earn more than $120,000. Meanwhile, only 2.7 percent of the benefits will go to the bottom 40 percent of hard-working Americans. To continue this gravy train for the well-to-do, while ignoring the economic anxieties faced by middle and lower income Americans, is unfair. Nevertheless, the Finance Committee tax bill is loaded with breaks for the wealthiest Americans, leaving the average taxpayer holding the bag.

Perhaps most illustrative of this point are three of the plan's largest tax cuts—the capital gains, individual retirement accounts [IRA's], and estate tax provisions. The Joint Tax Committee has estimated that three-quarters of Americans receiving capital gains income have household incomes over $100,000. Similarly, only 1.6 percent of estates are valued high enough to qualify for estate taxes. Finally, increases in the IRA income limitations will benefit only the top 30 percent of taxpayers. As laudable as some of these items are, their combination, without targeting, skews this bill to favor the affluent over middle-income Americans.

Beyond favoring the wealthy, the cost of these tax cuts will ultimately threaten the progress we have made on reducing the deficit, which is at its lowest point as a percentage of gross domestic product [GDP] since 1974. This is because the costs of the tax cuts, which are relatively low in the early years, will explode in later years outside of the budget window. For example, from 1997 to 2002, the combined revenue loss of the capital gains, estate tax, and IRA provisions is $4.3 billion. However, the revenue loss from these provisions rises dramatically between 2003 and 2007 to $68.7 billion. In 2007, the combined costs of the capital gains, IRA, and estate tax provisions grow to

$18.2 billion. This is 25 times the average annual cost of these provisions of $720 million, as indicated in the Joint Tax Committee distribution tables for 1997 through 2002 for the Republican tax bill.

In addition, cuts in the capital gains tax rate will likely generate a flurry of unproductive economic activity that may produce an unwelcome side effect—inflation. Because there are no requirements for reinvestment, a significant share of the capital gains realized will likely be consumed. This increased consumption will put upward pressure on prices and fuel the fires of inflation that we have fought so hard to extinguish.

I am supportive of the Democratic alternative because it contains targeted capital gains tax cuts aimed at productive, long-term investment and savings in areas that will best-serve our economy. For example, the bill provides a capital gains reduction for owners of small and startup businesses, which represent the most dynamic sector of the American economy. In addition, the Democratic alternative eliminates IRA provisions in the Finance Committee bill that will lead to dramatic cost increases over time. Moreover, the Democratic bill provides estate tax relief in a manner that will benefit true family-owned businesses and farms that continue to be operated by family members.

The child tax credit is yet another example of the distributional unfairness of the Finance Committee legislation. Because the credit is nonrefundable, many middle- and low-income Americans will be unable to take advantage of the child tax credits. It has been estimated that nationwide, 47 percent of all dependent children will be completely ineligible for the $500 tax credit because their incomes are too low. In my State of Rhode Island, almost 141,000 children, or 46 percent of the dependent children in the State will be ineligible for the credit according to Citizens for Tax Justice.

The fact that almost half of this Nation's children will be denied the tax credit is of great concern, and further reinforces my support for the Democratic tax alternative, which goes a long way toward solving this problem. The Democratic alternative improves the overall distribution of the tax cut by making the child credit refundable against federal payroll taxes. This is significant because most of the families that would otherwise be ineligible for the credit pay far more in payroll taxes than they do in income taxes. The Democratic alternative would also establish an income limitation on the tax credit to target the benefits to low- and middle-income families that truly need the assistance.

Mr. President, in these times of economic prosperity, we can afford to, and indeed we have an obligation to invest in priorities such as education that will have a positive impact on America's future. That is why I have been a strong supporter of the HOPE scholarship tax credit proposed by the President. While I applaud the committee for including education tax credits in their bill, I am concerned about reductions the committee has made in the size of the credit, which will limit its usefulness to many students. For this reason, I believe we should look to the Democratic alternative which allows for the full HOPE credit to be used by students for the first $1,000 in tuition expenses. Additionally, the Democratic alternative establishes a 20 percent tuition deduction that can be used after a student ceases to be eligible for the HOPE credit. Together, these tax credits provide the type of meaningful assistance that many middle-class students will need in order to meet the financial demands of postsecondary education.

Also, the Democratic alternative addresses the problem of crumbling schools that threatens our education system at the most fundamental level—elementary and secondary grades. It has been reported that in order to repair the costs of this country's aging schools, we will have to spend at least $4.8 billion. The Democratic alternative takes a step toward addressing this problem by establishing a program to allocate tax credits among the states for the purpose of repairing and constructing school facilities. We cannot hope to improve access and opportunity to higher education, without first ensuring that our elementary and secondary schools provide a physical environment that is conducive to learning.

Although hailed as the biggest tax cut since the Reagan era, the Finance Committee bill is perhaps a prelude to the biggest tax increase in our history. This is because the bill is loaded with gimmicks that reduce its costs in the early years, and will result in an exponential rise in costs beyond the 5 year budget window. Assuming that we reach a balanced budget by 2002, this bill will make it virtually impossible to keep our budget in balance, without raising taxes. In addition, the bill assumes that the U.S. economy will remain strong in the future—an assumption that flies in the face of the business cycle. An economic downturn would dramatically increase the costs and eliminate the hope of a balanced budget.

The Finance Committee bill will also help those Americans who are least in need of help. The capital gains tax cuts, estate tax cuts, and many of the changes to IRA's will benefit those Americans who have shared most in the economic growth of recent years. I question how we can afford to offer these tax cuts, while asking seniors to pay more for Medicare.

Mr. President, as we debate this bill, I ask my colleagues to consider the Democratic tax alternative. This amendment will provide for a fair distribution of the tax cuts and benefit a greater number of Americans. The amendment will eliminate the fiscal time bombs in the Finance Committee bill that will explode after 2002 and threaten our progress toward a balanced budget. Finally, the amendment rightly focuses on the targeted investments necessary to keep our country moving forward into the 21st century.

Mr. LIEBERMAN. Mr. President, I rise to discuss three provisions of the Revenue Reconciliation Act of 1997. I begin by congratulating my colleagues on the Senate Finance Committee for their efforts on this bill. They have worked hard to craft legislation that is forward looking and sensitive to the needs of our economy, working Americans, and our children. For the next few minutes, I would like to highlight several provisions of the bill that I believe are particularly important to our national economy and my State of Connecticut and are issues that I have supported and worked on over the years.

ECONOMIC GROWTH AND U.S. COMPETITIVENESS IN A GLOBAL ECONOMY

The Revenue Reconciliation Act of 1997 is a timely piece of tax legislation. It comes at a moment when our economy is in the midst of a transition to one that is more global and outward looking, more competitive, and more innovative. American companies and workers, whether they are in manufacturing, high-technology, or service industries, are more dependent on the world economy than ever before. It is with this assumption that we must consider our economic future.

Today in this new global economy, more Americans are taking part in employee ownership programs than ever before. Employees increasingly have a stake in the performance of their company and are sharing in its growth. As a result, our workers are directly benefiting from the dynamic economic expansion that is sweeping across our land. Our economy is once again being driven by aspirations for a better living.

This bill represents an understanding of our new economy and the aspirations of working Americans. It understands that education is the key to social mobility and economic security; it understands that small businesses are the backbone of our economy; it understands that increased savings and investment means greater independence and growth; and it understands that urban renovation means enlarged opportunity. It is a bill that sets our economy on a sound footing for the next millennium.

KIDSAVE

Let me now turn to some of the specific provisions that I believe are at the heart of this tax legislation and the reasons why I will support this bill. First, I am pleased that my colleagues have included in the Revenue Reconciliation Act of 1997 a child tax credit for children under age 17. This provision is a modified version of a proposal Senator KERREY of Nebraska and I first discussed in the 104th Congress. The inclusion of Kidsave reflects forward

thinking and, according to a recent New York Times editorial, ''a clever way to convert a pro-consumption tax cut * * * into a pro-savings tax cut.'' I congratulate Senators KERREY and BREAUX and their colleagues from both sides of the aisle on the Finance Committee for their work on this proposal.

The key word here is pro-savings. At a time when one of our greatest challenges is how to create economic opportunity and wealth for the working families of this country, I believe Kidsave helps us meet that challenge in an affordable, responsible way. If there is going to be a tax credit to help families with children, I believe there is no better way to provide that help than to offer parents the opportunity to ensure a sound financial future for their children.

One additional advantage of Kidsave should be noted, although it is harder to quantify at this time. This is the effect of encouraging Americans to save. The ethic of thriftiness seems to have been lost in recent decades, replaced by a credit card mentality. We would compound our problems if we pass such bad habits on to future generations. Kidsave can help us turn the tide of indebtedness into a groundswell of savings and can transform our whole attitude toward money and how to use it to best advantage. That will yield incalculable dividends for our nation down the road.

Kidsave will help our economy today by creating a pool of savings available for investment. As you know, savings and investment rates in the United States are at historic lows: our household savings rate is 4.6 percent of disposable income, compared to Japan's 14.8 percent and Germany's 12.3 percent. Under the provisions of the bill, parents will have the option of depositing $500 into an IRA-like account for children from birth to age 13, and be required to direct $500 into an IRA from age 13 to 16. This money will serve as an education fund for individual children, as well as a long-term retirement account; it will also provide investment capital for our economy. Most importantly, unlike any other proposal that has come before, Kidsave gives our children a tangible, financial head start on the rest of their lives.

CAPITAL GAINS

I am also encouraged that the drafters of the Revenue Reconciliation Act of 1997 decided to include broad-based capital gains cuts and targeted cuts directed toward small businesses. The bill calls for reducing the top rate from 28 percent to 20 percent for the highest earners and down to 10 percent for more modest household incomes. This decision too reflects a forward-looking perspective on our economy. I was pleased to cosponsor similar legislation with Senator HATCH earlier this year.

In today's global economy, small businesses and start-ups must rely on investors willing to take a risk on their venture. And in today's financial markets, investors are not only the wealthy, but include all working Americans. As a result, the benefits of this capital gains cut will not flow just to people of wealth. Anyone who has stock, who has money invested in a mutual fund, who owns a home, who has a stock option plan at work, has a stake in capital gains tax relief. According to the provisions included in this bill, homeowners will now be able to exempt up to $500,000 in gains from the sale of their principal residence. In addition, $1.5 million in assets of a family business will be exempt from estate taxes. All of this means that millions and millions of middle-class American families stand to benefit from this bill.

Small businesses will also particularly benefit from the provision in this bill. In a country where small businesses comprise a growing percentage of GDP, it is critical that their economic growth is not stifled by limited capital, but encouraged through greater investment. The Revenue Reconciliation Act of 1997 increases the size of an eligible corporation for additional favorable capital gains treatment. It also cleans up some of the implementation problems from the 1993 capital gains legislation for smaller firms which I strongly supported at that time. This means that the thousands of smaller companies and start-ups will attract more investors and capital. This will be especially helpful in the capital intensive high-technology and biotechnology industries where much of the growth in our economy is today.

BROWNFIELDS

I am also pleased to see that there is a tax relief provision for restoring brownfields, abandoned commercial and industrial properties believed to be environmentally contaminated. The Revenue Reconciliation Act will provide clear and consistent rules regarding the Federal tax treatment of certain environmental remediation expenses. This too is an issue that I have supported for some time. In fact, earlier this year, I advocated the restoration of brownfields with Senators ABRAHAM and MOSELEY-BRAUN.

In a perfect world, I would like the clean-up of all brownfield sites to begin tomorrow. However, revenue constraints preclude us from doing so. But we do have to start somewhere and what better place to start than Empowerment Zones and Enterprise Communities, areas that have been designated as economically distressed. These are arguably the areas of this country that are most in need of economic development. And that is precisely what this brownfields tax incentive is designed to do—bring economic development to the places that need it most. If this incentive works in our most economically distressed areas, I hope this Chamber will work to have this incentive cover a broader range of areas in the future.

CONCLUSION

In closing, I would like to encourage my colleagues to vote for the Revenue Reconciliation Act of 1997. It is a fair and sensible bill that is pro economic growth and pro-job creation. At a time when we are facing many economic challenges, this bill helps our companies and workers more effectively compete on the global economic stage. But more importantly, it is a bill that will broaden educational opportunities for our children and promote economic security for their retirement.

Mr. BRYAN. Mr. President, I supported this compromise legislation in the Senate Finance Committee, and I intend to support its passage on the floor as well. While there are many aspects of this legislation which I believe could be improved, I applaud Chairman ROTH for his efforts to produce a bipartisan, consensus bill that the great majority of the members of the committee could support.

One of the areas where I believe the bill does not go far enough in correcting flaws in the House Ways and Means bill, however, relates to the treatment of investment in real estate. Since 1963, so-called real estate depreciation recapture resulting from straight line depreciation has been provided the same tax rate as other forms of capital gains. Under current law, this rate is 28 percent. Under the House Ways and Means bill, however, an unfair differential is created between the general capital gains rate, which is capped under the bill at 20 percent, and the tax rate applied to depreciation recapture, which is set at 26 percent.

Many members of the Senate Finance Committee expressed serious concerns with this inequitable treatment of real estate investment, and significant efforts were made during the committee's consideration of this bill to provide equal treatment for depreciation recapture. Unfortunately, revenue concerns limited our ability to provide the 20 percent rate for depreciation recapture, and, in the end, the committee agreed to lower the rate for depreciation recapture to 24 percent.

While a better result than the House Ways and Means Committee's 26-percent rate, the 24-percent rate in the Senate Finance bill still does not place real estate investments on an equal footing with other types of investment.

I urge the leadership of both the Senate Finance Committee and the House Ways and Means Committee to reconsider this issue, and, during conference, to restore equal treatment for real estate investment. At a minimum, I urge the conference committee to resist any effort to increase the tax rate for depreciation recapture any higher than the 24 percent included in the Senate bill.

Mr. BAUCUS. Mr. President, I rise in support of the tax relief legislation before the Senate.

This is a complex bill. Chairman ROTH has done a superb job in working with a vast range of issues and many different groups of taxpayers to produce a generally good bill. And to explain why, I will start by putting

numbers aside and reviewing the broad principles our tax policy should reflect.

First, our tax policy should pay the bills.

Second, it should be simple and predictable.

Third, it should be fair.

Fourth, it should promote growth.

And fifth, it should be as low as possible.

Let's begin with the first. We need to pay the bills. To take Alexander Hamilton's words from *Federalist 30*, government must:

> raise troops, build and equip fleets * * * [and pay] for support of the national civil list; for * * * debts contracted, or that may be contracted; and, in general, for all those matters which will call for disbursements out of the national treasury.

These latter disbursements now include health insurance for seniors and the poor. Social Security checks. Highways, education, veterans benefits, scientific research, clean air, clean water, and more. Essential services the people want and should have.

But we also need to pay for them. And in the past the government hasn't entirely paid for them. In 1992, our budget deficit stood at $290 billion. But in the past five years we've done much better. This year, the deficit will be under $65 billion—a fall of nearly 80 percent.

And this bill will take us the rest of the way. By the year 2002, it will balance the federal budget. It will pay the bills.

Second, it will help make our Tax Code fairer. One very important example is our large cut in the estate and gift tax.

This tax is one of the prime causes of misery for farmers and small businesses today. These businesses hold small Montana towns and rural counties together across the generations. And by imposing very high-tax rates and equating land or asset values with large cash inheritances, the estate and gift tax often force families to sell them when an owner dies.

To cite one particular example, let me quote from a letter I received just last week from a veterinarian who runs a small clinic in Kalispell. He fears that:

> if I grow my business any more my heirs will have to sell it to pay estate taxes.

That fear runs from Kalispell clinics to ranches in the Judith Basin to small businesses in every Montana town. And it extends much further. When small businesses, farms, and ranches leave the family, their entire neighborhoods lose something very special. It is not right, and it is not fair.

And this bill will help us put a stop to it. It will let Montana's family-owned farms and businesses exclude up to $1 million in farm and business assets from the estate tax, allow 20-year installment payments for businesses with majority family ownership, and make other reforms that help make sure that young men and women can keep their family businesses in the family.

Third, with respect to simplicity, this bill will mean a much improved Tax Code in one very important area. That is international taxation.

Today, businesses are international. Agriculture is international. Companies in air services, entertainment, high technology and basic manufacturing are international. They comply with Tax Codes in other countries. They hire people all over the world. They work with suppliers and customers in different countries. And our international tax laws, mostly drafted in the 1970's, don't recognize this.

At that time, trade made up only about 12 percent of the American economy. Today it is over 30 percent and growing all the time. And tax provisions which assume that international businesses are a rarity don't make sense any longer. They often make American companies less competitive, and sometimes even create perverse incentives that push firms to avoid hiring American citizens in foreign operations.

This bill will help bring our Tax Code into the 21st century. Not all the way, but part of the way. It changes the passive foreign investment company provisions to eliminate overlaps with other tax provisions. And it ensures that Foreign Sales Corporation treatment applies to software as well as other copyright works.

But I must say with some regret that on the general principle of simplicity, this bill is not an advance.

Our Tax Code today relies on several dozen different income taxes, payroll taxes, excise taxes, Federal Reserve deposit interest receipts, tariffs and Customs fees, corporate taxes and user fees to make up its $1.5 trillion in revenue.

That is confusing and complicated enough. Then add in the 135 major tax credits, deductions, exemptions, exclusions and deferrals, totaling over $500 billion in tax expenditures last year. And it gets even worse.

And this bill will not improve the situation. In fact, in some respects it will worsen the problem by adding to the diversity of tax provisions. That's a drawback—not serious enough to devalue the bill as a whole—but one we must frankly admit and return to in coming years.

Fourth, the bill will help promote growth.

How can we do that? First, by promoting investment for the future. Helping companies create new technologies, new products and new manufacturing processes. Providing some incentives to start firms and create jobs. And improving our basic infrastructure.

With this legislation, we do all those things.

We extend the research and development tax credit for two and a half years.

We use targeted capital gains tax cuts as an incentive for investment in small businesses—the sector which presents the greatest risks and rewards, and which creates the most new jobs.

And we will directly increase our essential public investment in infrastructure by moving the 4.3 cents per gallon in Federal gas tax revenues from general revenues to the Highway Trust Fund.

And most important of all, we will help educate our children. Give them the chance for college. Help them work with new technologies. Make sure the next generation of Americans has the highest level of skills and education in the world.

With this bill, we create a $20 billion HOPE scholarship. We create a new deduction for interest paid on student loans. Promote life-time learning by making the exclusion for employer-provided educational assistance permanent.

Our legislation is not perfect on education. I believe we can and should go further on college opportunity. But it is much better than the status quo.

And let me make a related point. That is, with this bill we help make sure children are ready to learn. We do this by providing $24 billion in this bill and the accompanying entitlement bill for children's health. Today in Montana, about 27,000 have no health insurance at all. Millions more around the country.

That is a moral scandal and a threat to our future. Today in Montana, a typical health insurance plan for a family of four, with a $500 deductible and a partial dental benefit—costs $5,580 a year. That is simply out of reach for many working families.

And we have put together a package with a lot of money for States to insure more kids. Through Medicaid, through assistance for private insurance, or other options that fit a State's circumstances. This is will make our country stronger and healthier in the future, and it is the right thing to do for our kids today.

Finally, the last principle. Taxes should be low.

And this bill will make taxes lower. Over the next 5 years, it will reduce overall taxes by $85 billion.

Small businesses will get some more capital to help them invest and grow.

Farmers and ranchers will find it easier to pass their land on to their sons and daughters.

Families with young children will have some more money to spend at the movies, or in bookstores, or in contributing to charities.

Parents will find it a bit easier to send the kids to college.

That's a good thing for everyone.

In conclusion, Mr. President, this bill lives up to the principles we should expect of our tax policy.

It will pay the bills and balance the budget.

It will make taxation fairer.

In some ways, although it could be better, it will make taxation simpler.

It will promote growth.

And it will make taxes lower.

On the whole, it is a solid, careful, bipartisan bill. And we should be proud

of it. I congratulate the chairman for his work, and I hope this bill will get the Senate's support.

Mr. LEVIN. Mr. President, it is with disappointment that I oppose the reconciliation bill before the Senate today. I supported the budget agreement entered into by the congressional leadership and the President and I supported the budget resolution passed by the Congress last month. Both of them provided the broad parameters for a tax reduction package. I was hopeful at that time that the package of tax reductions worked out by the Finance Committee would be targeted to assist working families, particularly those with children. The package before us, however, is too regressive. It does too little to assist working families with education expenses, and it provides too large a tax break to those who need it least, at the expense of those who need it most. For that reason, I supported the Democratic alternative offered by Senator DASCHLE which would have provided a much larger proportion of its benefits, more than half of the tax cut, to middle-income families, the lowest 60 percent of wage earners. Unfortunately, that substitute for the committee's bill was defeated.

The legislation before us is out of balance. More than 42 percent of the benefits of its tax cut provisions go to the top 10 percent of income earners. By contrast the lowest 60 percent, middle-income families and below, receive less than 14 percent of the benefits. In my view this is not equitable.

The broad based capital gains tax cuts and the reductions in the estate tax largely benefit those among us that need it least. In contrast, I support the education tax cuts which the President has proposed, a $500 per child tax credit adequate to provide tax relief to middle-income families with children, and capital gains relief for homeowners. Also, I believe that, if consistent with deficit reduction goals arriving at a balanced budget, that targeted capital gains relief for long-term investments and an incremental approach to estate tax relief should be used.

Mr. President, I am also deeply concerned that this bill may result in large deficits in the years beyond this decade. In 1981, I opposed the Reagan tax cut because I was convinced that it would lead to huge deficits. We have paid dearly for the debt which resulted from that legislation. Only now, 16 years later, do we finally have a realistic opportunity to balance the budget once again. In 1992, the deficit in the Federal budget was $290 billion which represented 4.7 percent of the gross domestic product. The most recent estimate of the deficit for fiscal year 1997 is $67 billion, approximately eight-tenths of 1 percent of the gross domestic product.

Over the 5 years from 1993 to 1998, the deficit has been reduced by about $1 trillion from the deficit for those 5 years projected at the time. This remarkable progress has come about in large part as a result of the deficit reduction package which President Clinton presented in 1993, and which this Senate passed, without a single Republican vote, by a margin of one vote, the Vice President's. We should not now, by passing a tax bill like the one before us, head back down the road toward a new large future deficits. That is why, I supported the Dorgan amendment to sunset elements of the tax cut, if deficit reduction targets were not being met, and that is another important reason I cannot support this bill.

I know that the Senate is about to pass this bill. I hope that the conferees, the House and Senate leadership, and the President will engage in future negotiations which will result in a final product which is more equitable, which does more to invest in our children through their education, and which does not risk large deficits in the years after the turn of the century.

Mr. KERRY. Mr. President, if one looks back in our Nation's history, one cannot help but see numerous examples of both the great strengths and weaknesses of representative democratic government. Compared to other nations and societies in the world, it is more difficult for us to hide or camouflage our mistakes to a considerable degree. If we look closely, we can identify indicators for which we in public service should be watchful, lest we repeat our errors.

I fear we are repeating errors we have made in the past as the Senate passes the Revenue Reconciliation Act of 1997, and the intimately related budget reconciliation Bill that passed earlier this week.

For all of us who are politicians and who hold or seek elective office, it is often difficult, Mr. President, to resist the temptation to play to the gallery—to do the popular thing. And there are few things that get political juices flowing more readily than cutting taxes. If one looks only skin deep, a tax cut of almost any kind looks appealing. After all, those who benefit will be pleased to accept the benefit. And a tax cut does not directly take anything away from others.

As is not infrequently the case, however, an honest analysis must look beyond that kind of ''quick-and-dirty'' first appearance. Tax policy has two dramatic effects on the Nation and its people. It inescapably is the determinant of the resources the Federal Government will have to meet national needs, ranging from defending our national security to preserving the environment to ensuring health care is available to those who need it to managing our national parks and forests to deterring criminal acts and identifying, pursuing, arresting, convicting, and incarcerating those who commit crimes against society.

Mr. President, when the Senate took up the package of two bills produced by the Senate Finance Committee to implement the so-called budget deal that had been negotiated by the White House and the congressional leadership, again and again I was brought back to two stark conclusions.

First, I was terribly disappointed that, once again, the Congress seemed to lose sight of the original objective. We started out on this budget track with the objective of putting in place a fiscal plan that would take us to a balanced budget in 5 years. We knew that, in order to do that, we would have to obtain economies in many important Government services and programs on which Americans in all walks of life depend. Incongruously, somewhere along the way, the urge to take the easy way to political popularity took over, and the effort to develop the budget deal and then the legislation to implement the budget deal was consumed by the passion of making huge tax cuts. At a time when we have agreed that the route to a balanced budget is so painful that we cannot accomplish that objective in less than 5 years, those who developed the plan and the legislation insisted that we cut taxes by $135 billion in gross and $85 billion in net over that period.

Mr. President, a student will not even be out of elementary school mathematics before he or she has the capacity to know that tax cuts of that magnitude represent movement in precisely the opposite direction to the goal of obtaining a balanced budget while not hurting our nation's ability to meet its national needs.

I want to emphasize immediately that I am not categorically opposed to tax reductions. To the contrary, I favor targeted tax cuts of reasonable dimensions designed not just to slash federal revenues but to achieve purposes that are in the Nation's interest. I was a leader in Democratic efforts here on the Senate floor to pass a tax reduction package—a much fairer package than the one presented to the Senate by the Finance Committee and a package that identified clear national interest objectives and devoted its resources to meeting those objectives. I will have more to say about that in a moment.

Second, I was terribly disappointed when I examined the specifics of the budget proposals to see the extent to which its benefits were skewed to those in the highest income brackets. The past several years have been extremely kind to the well-off in our Nation. Those who already possessed a disproportionate share of capability, capital, and opportunity have prospered mightily. Those who crafted this budget package provided the greatest share of its benefits to this privileged portion of our population. Those at the other end of the economic spectrum—those who struggle the hardest to make ends meet, and for whom life is far more of a challenge—would receive virtually nothing, or nothing at all, of its benefits. The word ''unfair'' is not sufficiently stark to adequately describe the overall effect of this package.

For those of us who, over time, have made the hard judicious, moderate,

measured choices to bring the Federal budget into balance, there is tremendous disappointment in this outcome. When this budget process began this year, I enthusiastically wanted to participate in the process and support its outcome. I have long called for our political structure to demonstrate the fiscal discipline to balance the Federal budget, and have insisted that we do so in a way that is fair, and in a way that recognizes the Nation's fundamental needs and does not emasculate our Government's ability to address them. I and many others have worked arduously to break the spiraling deficits which plagued our Nation for a decade and to provide a solid economic foundation for our Nation as we move into the 21st century.

We made a very important installment payment toward this goal in 1993, when Democrats in the Congress, with the leadership of President Clinton—and without a single Republican vote in either House—passed legislation that dramatically cut the deficit and put us in striking range of where we find ourselves today. I have long waited for the day when the benefits of our hard work would be as obvious as they are today. In the four years since that action in 1993, we have witnessed prosperity unprecedented in recent years. In five years, we cut the deficit from $290 billion to $67 billion. Interest rates are subdued. We are seeing the lowest unemployment and inflation rates and the largest drop in poverty rates in a generation. Consumer confidence has shown the greatest improvement since the Eisenhower administation and the value of the stock market has doubled since 1993—the fastest growth since the Second World War.

By enactment of the 1993 budget legislation, Democrats proved that it is possible to take a fiscally responsible course toward a balanced budget and extend health care to children, provide broader educational opportunities, ensure the future for our senior citizens, and safeguard our environment. This certainly is not a picture which is without its problems, and we must address those problems. But the overall picture is a very appealing one, indeed.

Even the possibility of the legislation before us now—a conceptually balanced budget with tax breaks—is testament to the application of Democratic ideals to fiscal policy. We have been successful because, since the Great Depression, our party has stuck by the fundamental belief that sound economic and social policy go hand-in-glove, that our Nation is stronger when all Americans have equivalent economic opportunity. Thomas Jefferson taught us that ours is a n ation of the common man and enshrined this belief in one of our most treasured documents when he wrote of the self-evident truth that all men are created equal. Andrew Jackson echoed this creed when he restated the party's commitment to the ''humble members of our society—the farmers, mechanics and laborers.'' That commitment, that core set of beliefs, is, in fact, Mr. President, the essence of the American dream and the foundation of what has become the greatest contribution this Nation has provided to the world's social economic history—the growth of a vibrant middle class.

Universal economic opportunity, sound fiscal policy based on equitable distribution of benefits and assistance to those most in need—those are the fundamentals of Democratic economic policy. That is the goal of the program we put in place in 1993, and that is the end to which our fiscal policies are directed. Franklin Roosevelt reminded us of our commitment to expanding opportunity when he said: ''the spirit of opportunity is the kind of spirit that has led us as a nation—not as a small group but as a nation—to meet very great problems.''

Mr. President, as Democrats, we believe that deficit reduction is a means to an end. We believe that tax breaks are a means to an end. But, unlike the Republicans, we do not subscribe to the callow notion that deficit reduction is an economic policy in and of itself or that tax breaks are an end which justify any means. We do not believe that cutting vital programs is a courageous or visionary act. We believe that courage lies in advancing economic opportunity: this requires wisdom, innovation, and conscience. It is chilling that this dichotomy of political and economic philosophy remains as obviously demarcated today as it was 100 years ago. Yesterday I re-read the cogent description by William Jennings Bryan of the two opposing ideas of government. He separated the parties into those who ''legislate to make the well-to-do prosperous and wait for their prosperity to leak through on those below, or those who legislate to make the masses prosperous and ensuring that their prosperity will find its way up through every class which rests upon them.''

Mr. President, as a U.S. Senator, I have an obligation to the constituents who elected me to represent their interests, to act on their behalf and to present their views to this body. I cannot turn away from the long history which has shaped my core sense of fairness, my overarching insistence on making Government work for the common good and the needs of my constituents—all in order to satisfy the parameters of a political deal. Mr. President, for that reason, I voted against the tax portion of the reconciliation bill as I voted against the spending portion.

The problem, when distilled to its essence, Mr. President, is that this legislation, which has been called by some the Tax Fairness Act, would be better called the Tax Unfairness Act.

Mr. President, I have great admiration for the work of the Senator from Delaware, Senator ROTH, who chairs the Finance Committee and my friend from New York, Senator MOYNIHAN, who serves as that committee's ranking member. They produced a tax bill that is improved considerably from the gravely flawed piece of legislation passed by the House of Representatives. But, Mr. President, without additional improvements I cannot support it or its companion spending programs reconciliation bill.

During the course of debate this week, we attempted to shape the legislation so it would address more of the problems of more Americans, and thereby become a fairer piece of legislation, but time and again we were rebuffed by the Republican majority.

Some of my colleagues, who share many of my concerns about the bill and my judgment that, in its current form, it neither is fair nor will in the long run prove beneficial to our Nation, chose today to vote for the tax bill, hoping devoutly that with the President's active involvement in the conference committee that will convene to resolve differences between the Senate-passed bill and the bill the House passed earlier, a better, fairer bill will emerge and will come back to the Senate for its approval. But I believe that the product before us today is so flawed in such critical respects that I could not vote for it in its current form. I join my colleagues who hope for it to be improved in conference committee. I want to be able to vote for a bill that provides tax reductions that will benefit Americans fairly, and will not concentrate its benefits on those who least need them while totally excluding those hard-working, tax-paying Americans who most need the additional assistance.

The Democratic alternative to the Finance Committee's bill which I joined the Democratic leader and other Democratic Senators in offering yesterday was designed so that our education tax breaks, our capital gains and estate tax reductions and our child credit corrected the basic inequity found in the Finance Committee proposal: the flow of benefits chiefly to the wealthiest Americans.

In the committee's package, nearly 43 percent of the breaks go to the wealthiest 10 percent of Americans—those who earn more than $120,000. In its plan, Mr. President, 60 percent of hard-working poor and middle class Americans get only 12.7 percent of the tax breaks, while the richest 1 percent of Americans get 13 percent of the benefits. Mr. President, in the Finance Committee proposal, the poorest 60 percent get only as much in aggregate as the richest 1 percent. This is a new standard of unfairness. This is anathema to the party of Jefferson and Jackson and Truman and Roosevelt.

During the course of the debate, I heard some of my colleagues on the other side of the aisle justify this counterintuitive distribution by arguing that since the rich make the most money, the rich will necessarily benefit the most from a tax cut. But this skewed distribution is not necessary. In our alternative, Democrats showed

that it is indeed possible to craft a tax package which is targeted to those who need help and not lavish more on the rich. We designed tax breaks which are affordable and which meet a commonsense and economic test of basic fairness.

In the Democratic alternative, the poorest 60 percent of Americans would have received 46 percent of the tax cuts. These are the same Americans who receive only 13 percent of the breaks in the Finance Committee's plan. In the Finance Committee proposal, middle class Americans—those earning between $30,000 and $85,000—receive a scant 30 percent of the benefits. Under our plan, these middle class Americans would have done twice as well: 57 percent of the benefits in our plan go to hard-working, middle class Americans.

The Democratic alternative would have helped those who actually need a tax break to raise a child, to go to college, to start a business, to generate high-wage 21st century jobs and to grow our economy. Our alternative was based on principles which have guided our party for two centuries, and followed the basic economic philosophy which has served our Nation so well since 1993.

Another feature of the Finance Committee's plan troubles me immensely, and I believe it should trouble all Americans. According to the computations of the Joint Tax Committee and other reputable projections, the cost of the tax cut explodes in future years—it is a fiscal timebomb. In the first 5 years, the cost of these inequitable cuts is $85 billion. I believe we can afford a cut of that size and have stated so publicly—if it is carefully structured, usefully targeted to need and social benefit, and fairly distributed. But, Mr. President, in the second 5 years of the Finance Committee's plan, the cost of these cuts will escalate to $250 billion. And, in the 10 years after that—when baby boomers will be retiring and straining Medicare and Social Security coffers—the cost will be between $650 to $700 billion. That is exactly the type of fiscal irresponsibility we avoided in our alternative.

I was not here in 1981 when the Congress passed a large tax reduction bill, Mr. President. But the entire time I have served here—since 1984—the Congress has struggled to deal with the history-making deficits and resulting all-time-high national debt that resulted from that irresponsible tax cut. I cannot support legislation that, even if of a lesser magnitude as this bill surely is, will have an out-years explosive effect that will saddle Americans in future years, and their elected representatives, with a recurrence of the deficit and debt problems that have beset us for nearly two decades. Most destructively, this explosion will occur just as the baby boomers are reaching retirement age and beginning to place an unprecedented demand on retirement and medical programs and other governmental services. It is a looming problem universally acknowledged. Yet instead of doing everything in our power to reduce its severity and to take gradual steps to resolve it, we are considering and passing legislation that will dramatically increase its dimensions, narrow the range of solutions, and complicate the task of addressing it. That is not leadership, Mr. President. That is folly.

In the Democratic alternative tax proposal, we attempted to reduce the capital gains taxes in a measured way. In the past, broad capital gains tax cuts have been used to spur economic growth when the economy was lagging. In the past, across-the-board capital gains cuts have been used to encourage the movement of capital into investment that would create jobs because unemployment was high. In the past, broad capital gains tax cuts have served as a shot of adrenaline for an ailing economic system. But today, such emergency measures are neither needed nor appropriate.

Mr. President, as a question of fundamental economics, there is no justification for broad capital gains tax cuts at this time. There is no need to expend precious budget resources to reward the wealthiest American families for the sale of art work or Persian rugs or luxury goods they have held for a generation.

Again, Mr. President, I am not saying that we cannot afford a capital gains tax cut. For years, I have believed that a targeted tax break can shape economic policy and can display economic vision. But, I ask, what is the benefit to our economy if a wealthy American only has to pay 20 percent instead of 28 percent on the gains he accrues from selling his yacht? Where is the economic vision in that kind of a Tax Code change?

Mr. President, there are ways to aim a capital gains tax cut—targeted, sensible ways—to use taxation of capital to leverage growth and job creation in those areas. That is a tax policy with vision, with a goal, with an economic priority. The economic priority, Mr. President, is not an across-the-board capital gains cut such as the one presented by the Finance Committee.

The priority is a targeted tax cut in areas which could use the added economic stimulus, such as emerging small businesses, or start-up companies, or parts of the inner cities and rural areas which could use the jobs. That is what we Democrats included in our tax proposal. And that is a policy which I have fought for—along with the senior Senator from Arkansas, Senator BUMPERS and other Senators—for nearly a decade. Mr. President, our plan would have improved on a provision we passed in 1993 by allowing a 50-percent exclusion for capital gains on qualified small business stock held for at least 5 years. Qualified small businesses under this proposal would be defined as having $100 million in assets and would be start-up, small, high-technology ventures.

Our plan would have cost $10 billion—it did not break the budget in the future like the capital gains provision in the Finance Committee plan. Mr. President, more than 90 percent of the cost of the Republican capital gains plan comes after 2002. To use computer terminology, Mr. President, this is a latent virus—it will emerge full blown in later years to exact a terrible toll on those who at that point will have the responsbility for delivering essential services to Americans while operating a balanced Federal budget.

Mr. President, while the Finance Committee plan does a great deal to help wealthy Americans in its capital gains and estate tax cuts, it does not extend the same broad-based cuts to help hard-working middle class families raising children. Our alternative would have done more for precisely those families who can use the help the most. And those are the families—young families with young children—who will be doing the most for our country in the future.

Today, Mr. President, I attempted to correct this basic inequity by offering an amendment which would have improved the bill by transforming the child tax credit so that it would be refundable against payroll taxes paid by all working families. Most Americans pay more in payroll taxes than income taxes. Income taxes have remained stable for most Americans in the past 10 years while payroll taxes have increased 17 percent. Allowing Americans to offset the credit against these payroll taxes would have broadened its application to many additional American families—hard-working families at the lower end of the economic spectrum. This is in distinct contrast with the Finance Committee plan under which nearly 40 percent of America's children are excluded from the tax credit. Those 40 percent are the children of the poorest families in the Nation.

The judgment I reached on Wednesday about the reconciliation bill that applies to mandatory spending programs was similar and related, Mr. President. It is painfully apparent that we must take prudent, fair steps to restrain the growth of some of our so-called entitlement programs so that they do not rage out of control and threaten our ability not only to meet the needs they are designed to meet but the host of other critical national needs to which discretionary programs are addressed. But the objective was lost in the stampede to provide a huge tax cut to upper-income Americans. The spending programs reconciliation bill cut far more deeply into critical programs like Medicare and Medicaid than was required to achieve necessary savings. And for what purpose? To provide the cushion enabling Republicans to increase the size of the tax cut to the wealthy by scores of billions of dollars.

The worst part of this spending bill is the increase in the Medicare eligibility age from 65 to 67. This will cause the

number of uninsured older Americans to increase substantially, moving the United States even further away from the goal of universal health coverage. For many seniors age 65 to 67, this will make purchasing private health insurance unaffordable—especially those who have pre-existing conditions. Private policies cost seniors approximately $6,000 a year, and more than $10,000 if they have any pre-existing conditions—if they are able to get insurance coverage at all.

Mr. President, raising the eligibility age is bad policy because most seniors do not have access to employer-provided private health insurance now and the problem is getting worse: according to a recent Commonwealth Fund study, the number of retirees with health insurance from a previous employer decreased from 44 percent in 1988 to 30 percent in 1994.

Although some argue that this increase in the eligibility age is similar to the increase in the age for Social Security eligibility that is being phased in, Social Security still provides early retirement benefits at age 62. Medicare, on the other hand, will not provide an option for health care coverage for early retirees, many of whom have not retired voluntarily. Finally, businesses correctly oppose this provision because they realize the huge cost it will impose upon them. Eighty major corporations and the National Association of Manufacturers recently wrote to the Senate to ask it not to raise the eligibility age.

I am also opposed to the $5 home health visit co-payment which was not part of the balanced budget agreement with the President. This co-payment will primarily hurt elderly women who need this help the most: over half of the group who would no longer be able to afford home health services are women age 75 and older who have incomes below $15,000. I am also concerned that increasing the cost of home health visits is not cost-effective because many poor seniors will be forced into institutions at much greater public cost than continuing to stay at home.

I also oppose the Medical Savings Accounts [MSAs] provisions in the bill. Although the number of MSA enrollees would be limited to 100,000, there is no reason to test MSAs beyond the study begun in the Kassebaum-Kennedy bill. We are spending $1.5 billion through that bill and at the very least we should wait to see the results from that study before we authorize more demonstrations.

I am also deeply concerned about the cuts in the Medicaid Program which is the bedrock health program for children, disabled people, and poor seniors. The spending bill would cut $13.6 billion from the program, the bulk of which comes from cutting payments to hospitals that treat a large number of uninsured patients. These payments, called Disproportionate Share Hospital [DSH] payments, are essential to many hospitals across this country that provide health care to our poorest citizens. Although it may be necessary to more effectively target these funds, this funding has enabled hospitals to continue their role as an institutional safety net for those with no other access to health care.

Mr. President, there unquestionably are some sound provisions in these two bills. There are provisions I strongly support. But my job as the Senator elected by the people of Massachusetts is to examine the overall effects of the legislation the Senate considers and to determine if, on balance, it serves the interests of the Commonwealth and its citizens, and the people across our United States and their interests.

I would like to support a budget package that will reach balance in 2002 since I have long advocated such a step. I would like to support a bill that achieves economies in mandatory spending programs to put us on a pathway toward balance. I would like to support a tax bill that targets tax reductions to Americans who need them and that will help create jobs and extend our current situation of economic strength. I still hold out hope that I will be able to do so when these bills return from conference committee.

But, sadly, they did not pass that test as they came before the Senate for final passage, and I was constrained to vote against them.

CAPITAL GAINS

Mr. GRAHAM. Mr. President, this tax legislation, as passed by the Senate Finance Committee, goes a long way toward assisting our Nation's families. For example, reducing the capital gains tax rate from 28 percent to 20 percent will stimulate savings and investment. This increased investment will, in turn, foster economic growth.

In particular, I would like to draw your attention to a provision that will have considerable impact on our Nation's families: the capital gains exclusion for homeowners who sell their primary residence. Under current law, capital gains from the sale of principal residences is subject to taxation, with two limited exceptions. First, under the rollover provision, taxpayers can rollover gains from the sale of a principal residence into a new residence. They can then defer any capital gains tax—but only if the purchase price of the new home exceeds the adjusted sales price of the old one. And to restrict this even more, the new residence must be purchased within 2 years of the sale of the first home.

A second exemption ties the capital gains tax to age. At age 55, a taxpayer can exclude up to $125,000 of any accumulated gain from the sale of a principal residence. And this is a one-time-only opportunity. Worse yet, even this is restricted. To qualify for the exclusion, the taxpayer must have owned the residence and used it as a principal residence for at least 3 years during the five years before the sale. Also, a taxpayer is eligible for the exclusion only if neither the taxpayer nor the taxpayer's spouse has previously benefitted from the exclusion.

Unfortunately, the very provisions which are supposed to relieve homeowners from taxation often prevent them from making the soundest financial decisions. Under current law, to avoid being taxed, most people wait until they are eligible for the one-time exclusion, or they make what may be imprudent decisions regarding the sale of their homes.

For example, many families, after their children have moved out, would like to sell their home and buy a less expensive one. However, the rollover provision means that they will have to pay taxes on the difference between the profit gained on the sale of their old home and the cost of their new home. As a result, these families often choose to buy more expensive homes or not to sell their home at all. Mr. President, that is not right. People should be able to move when and where they want to, not when the tax code makes it financially possible.

Under the legislation passed by the Finance Committee, taxpayers of any age could exclude gain on the sale of a principal residence of up to $500,000 for married couples filing a joint return, and up to $250,000 for single taxpayers. To be eligible, the taxpayer must have owned and used the home as the principal residence for at least two of the last 5 years prior to the sale. The exclusion will generally be available once every 2 years.

This legislation will give our Nation's families more freedom in deciding where to live. This decision can be based on family circumstances rather than on the Tax Code. The bill would also relieve nearly all families of the burdensome record-keeping requirements and constraints on decision making under current law. The impact on our Nation's families will be tremendous, and I look forward to the enactment of this legislation.

This bill will significantly impact our Nation's families. It will promote investment and boost long-term economic growth. And a healthy economy translates to increased opportunities for American families to secure their future. Our Nation's taxpayers work hard to provide for their families. This legislation is a chance for us to lend them a helping hand in that task.

I thank the Chair.

Mr. BYRD. Mr. President, the halls of the Capitol have been filled recently with cheers and rejoicings for the balanced-budget agreement reached between President Clinton and the Congressional leadership in May of this year. We have been told time and time again that balancing the budget is crucial to the future of our Nation and that enacting this budget agreement will eliminate the Federal deficit. Well, Mr. President, I find it interesting that the reconciliation legislation before the Senate today has nothing to do with balancing the budget. Rather, S.

949, the Revenue Reconciliation Act of 1997, will bring us farther away from our collective goal of balancing the budget by reducing revenues some $76 billion below what they would otherwise be over the next five years.

Mr. President, the Senate has already approved legislation this week to balance the Federal budget. On Wednesday, June 25, the Senate approved S. 947, the Balanced Budget Reconciliation Act of 1997. Despite its deficiencies, that legislation provides for some $127 billion in deficit reduction over the next five years. These savings, coupled with the $96 billion in discretionary savings provided in the Budget Resolution, will likely produce a balanced budget in the next five years. While I had intended to support passage of the first reconciliation bill, I became deeply concerned about a provision in the bill emanating from the Finance Committee that would raise the eligibility age for Medicare from sixty-five to sixty-seven years. As reported, the bill already included a provision to create a National Bipartisan Commission on the Future of Medicare to study ways to preserve and protect the Medicare program for future generations. If the bill thus created a commission to study and propose recommendations to protect Medicare in the future, why was the aforementioned increase in the eligibility age included in this bill? Is that not why we are creating the commission in the first place? Mr. President, the important and controversial issue of raising the eligibility age for Medicare beneficiaries should be decided by a national debate—not in the opaque cloaking of a reconciliation bill. Thus, because of my deep concerns about this provision on both substantive and procedural grounds—and my general frustration with the haste and confusion with which the Senate was considering the overall measure—I decided not to support passage of the first reconciliation bill. However, let me affirm that my vote against this measure in no way reflects any unwillingness on my part to pass spending cuts to balance the budget.

Mr. President, let me now turn back to the pending matter, the Revenue Reconciliation Act of 1997. All Senators should be aware that, on the heels of approving a deficit-reduction plan to balance the budget, we are about to approve subsequent legislation to weaken—and possibly undermine—that very balanced-budget plan. I have not kept secret my fervent opposition to this foolish idea of cutting taxes while simultaneously trying to balance the budget. Doing so is simply so illogical that a third-grade student, with just a pencil, paper, and a modest knowledge of the fundamentals of mathematics, would be sufficiently equipped to reach the same conclusion that tax cuts and deficit reduction do not mix. I am confident that such a student would choose, like this Senator chooses, not to include such tax cuts in a plan to balance the budget.

Mr. President, as I stated in my remarks on the Budget Resolution approved last month, by including these tax cuts in this balanced-budget plan, we are with one hand digging deeper the very hole our other hand is trying so hard to fill. We should not rely on such ambidexterity to balance the budget. We should shelve all tax cuts until after we firmly erase the budget deficits that have so plagued our nation in recent years. Tax cuts were, after all, the primary culprit for the rapid escalation in the federal budget deficit in the 1980's. It is all too easy to enact tax cuts and save the pain for later. We have done it before, and the lessons learned from that exercise should instruct us not to do it again.

Mr. President, traditionally, one of the most powerful arguments in favor of tax cuts has been that they spur economic growth. I do recognize that properly constructed tax cuts can produce some positive economic results in certain circumstances. However, no matter how strongly one believes that tax cuts stimulate economic growth—and there are some in this body who unequivocally adhere to the supply-side dogma—there can be no sound argument made now that tax cuts are necessary to boost the economy at this time. We are currently in our sixth consecutive year of economic growth, the stock market continues to reach record high after record high, unemployment has just dipped below five percent, and inflation has remained in check. Mr. President, such a performance hardly bolsters the case that tax relief is necessary to inject new life into our economy.

If anything, Mr. President, our current economic situation should reinforce the notion that reducing the deficit is more conducive to economic growth than cutting taxes. To illustrate this point, let me remind all Senators what actions have led to four straight years of declining deficits and to one of the healthiest American economies in the last thirty years. According to the Congressional Budget Office, the FY 1997 budget deficit will be approximately $67 billion, or less than one percent of Gross Domestic Product (GDP). Just five years ago, we were facing a budget deficit of $290 billion, or about 4.7 percent of GDP. This considerable improvement in the fiscal order of our nation did not occur by accident. Rather, it can be traced directly to the passage in 1993 of the Omnibus Budget and Reconciliation Act (OBRA–93) by the 103rd Congress and its subsequent signing by President Clinton. That legislation combined responsible spending cuts and revenue increases to begin the painful—but necessary—process of eliminating the deficit. There can be no doubt of the success of OBRA–93 in bringing down the deficit and stimulating economic growth. OBRA–93 achieved such positive economic results not by cutting taxes, but rather by convincing financial markets that we were serious about reducing the deficit. These markets drove interest rates downward and consequently rewarded American taxpayers with lower interest payments on the federal debt, as well as lower interest payments for the purchase of a home, car, or an education.

Mr. President, even if I were convinced that we must cut taxes before balancing the budget, I would also hope that any such proposal would not explode revenue losses in the long term. Unfortunately, S. 949 is flawed when judged by this standard. As reported, this legislation includes a significant backloading of many of its tax cuts to mask their true cost. As such, while the bill purports to reduce taxes by no more than $85 billion over the next five years, I suspect that these tax cuts will cost considerably more in the out years than we are being led to believe. The Joint Committee on Taxation's estimates reveal that the annual cost of these tax cuts would more than double between the years 2002 and 2007—thus reducing federal revenues at the same time our nation is preparing to face the rising entitlement costs that will stem from the retirement of the so-called ''Baby Boomers.'' I defy anyone to explain to me the flawed logic inherent in this proposal.

Finally, Mr. President, let me explain my views on the Democratic alternative amendment that was offered by the distinguished Minority Leader. In looking at the Senator's proposal, I saw that he had made a considerable effort to ensure that these tax cuts are more fairly distributed and that the cuts do not explode in the long term. For this improvement, I applaud Senator DASCHLE and the other Members who have worked on this proposal, which is, in this Senator's opinion, an improvement over the pending legislation. However, I was unable to support his amendment to this legislation because it also provided for tax cuts prior to balancing the budget—a notion that I cannot philosophically accept. I hope that my vote against this proposal is not misconstrued as anything else but a determined, unyielding opposition to tax cuts at this time.

In conclusion, Mr. President, despite my unequivocal opposition to this pending reconciliation bill, I would like to commend the members of the majority and minority leadership, and the Budget and Finance Committees, who have been able to bridge the gap between the White House and both parties in Congress to forge the budget compromise that we have considered this week. I know how difficult such compromise can be to reach, and, more importantly, to sustain. Nevertheless, I would much prefer not to have seen these tax cuts being debated at this time on the Senate floor. Such a debate is akin to arguing with your mother on whether or not you can eat dessert before finishing your broccoli. We may all want to eat the sweet and leave the vegetable, but we should know better—and our mothers would surely remind

us so. I fear that the Senate will come to regret the action it takes on this legislation, though only the passage of time can be the final arbiter in this debate.

Mr. President, I yield the floor.

Mr. LOTT. Mr. President, the vote we're about to take will be one of the most important any of us will ever cast.

The decision before us is as important as our families and as large as the American future.

If this is not an historic moment, then it is as close to it as most of us will ever come.

Several weeks ago, when we first reached the broad outlines of an agreement with the President, I called it a victory, not for a party or a person, but for the American people.

We can reaffirm that today. We listened to the American people. We knew what they wanted us to do.

And somehow, by the grace of God and the endurance of PETE DOMENICI and BILL ROTH, we did it.

We set out to lower the tax burden on the American people. We did so. In this bill, more than 75 percent of the tax breaks go to people with incomes under $75,000.

We set out to make the Tax Code family-friendly. We did so. After far too many years of talking about a tax credit for children, we're finally approving one. In addition, we're making it easier for families to save for the costs of education.

On top of that, we're expanding the availability of IRA's to virtually all homemakers in the country. And we're easing the death tax on family farms and businesses.

This bill rides in tandem with the Balanced Budget Act the Senate passed 2 days ago.

That marks a turning point in the way Congress deals with the entitlement programs that have driven our country to the depths of indebtedness.

Even more important, it fulfills our commitment to strengthen and preserve Medicare, not only for today's beneficiaries but for those who will depend on that program in the years ahead.

Taken together, what the Senate and House have done this week gives the American people the assurance of something they have not had in three decades: a long-term balanced budget.

That, of course, is more than an end in itself. It is the surest way to touch off a dynamic economic expansion that will make the first years of the new century an opportunity decade.

What we have done this week, and what we do today, is more than an exercise in bookkeeping. It is a commitment of the heart to an America where every willing worker can find a good job, where industry and thrift are rewarded, and where every family can aspire to a better life.

And yet, this is not a perfect bill. I wish we could have reduced taxes more, just as I wanted to reduce spending more in the Balanced Budget Act.

But we had to craft both pieces of legislation through compromise and consensus. If the American people understood everything we were up against these last few weeks, they would be amazed that we were able to do for them as much as we did.

This is not the end of the story. We have one hurdle left, and that is the highest of them all.

After passing this bill, we will go to conference with the House. I will do all I can to make that conference quick and productive.

Our hurdle—our challenge—will be to preserve the historic work of the Senate and the House in the face of opposition, and perhaps veto threats, from the administration.

On behalf of our entire Republican leadership, and all Senators who will be our conferees, I want to give this pledge to the American people:

We will go the extra mile to advance this legislation that is so vital to you. We will do our utmost to work out disagreements with the President.

But by the same token, we will not agree to any settlement that denies your tax cuts or turns them into the kind of tax fiddling that does nothing to advance opportunity and job creation.

So as we prepare the conference report on these two bills, we will listen in good faith to anyone who speaks in good faith.

We will share credit, take blame, and let others have the spotlight. But we are not going to yield on matters of principle.

With that in mind, Mr. President, I urge the passage of the Taxpayers Relief Act as the Senate's Independence Day salute to the taxpayers of America.

BYRD RULE LIST

Mr. DOMENICI. Mr. President, pursuant to section 313(b)(1)(C) of the Congressional Budget Act, I submit a list on behalf of the Committee on the Budget of the extraneous material in S. 949, the Revenue Reconciliation Act of 1997, as reported.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FINANCE—REVENUES

Provision	Comments/Violation
	Senate
Sec. 702	Establishment of Intercity Passenger Rail Fund. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 704	Deposit general revenue portion of highway motor fuels taxes into highway trust fund. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 706	Require study of feasibility of moving collection point for distilled spirits excise tax. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 708	Codify BATF regulations on wine labeling. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 731	Delay penalties for failure to make payments through EFTPS until after 6/30/98. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 769	Combined employment tax reporting five-year demonstration project for Montana. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 772	Safety net for marginal oil and gas production when crude oil reference price is below $14. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 777	Modification to eligibility criteria for designation of future enterprise zones in Alaska or Hawaii. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.

FINANCE—REVENUES—Continued

Provision	Comments/Violation
	Following provisions are from the Simplification section of S. 949
Sec. 1023	Due date for furnishing information to partners of large partnerships. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1025	Treatment of partnership items of individual retirement accounts. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1083	Repeal of authority to disclose whether prospective juror has been audited. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1084	Clarification of statute of limitations. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1109	Adjustments for certain gifts made within three years of decedent's death. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1113	Authority to waive requirement of United States trustee for qualified domestic trusts. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1212	Authority to cancel or credit export bonds without submission of records. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1213	Repeal of required maintenance of records on premises of distilled spirits plant. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1215	Repeal of requirement for wholesale dealers in liquor to post sign. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1217	Use of additional ameliorating material in certain wines. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1220	Authority to allow drawback on exported beer without submission of records. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1231	Authority for IRS to grant exemptions from excise tax registration requirements. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1232	Repeal of expired provisions. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1244	Repeal of expired provisions. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1252	Redetermination of interest pursuant to motion. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1305	Elimination of paperwork burdens on plans. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1307	New technologies in retirement plans. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.

Mr. LOTT. Mr. President, the next vote will be final passage. It will be the last vote of the week before the Senate adjourns today. I will file cloture on the motion on the DOD authorization bill. That cloture vote will occur on Tuesday, July 8, at 2:15. That will be the next vote. Senators that have amendments to submit are urged to do so by Monday, July 7.

Once again, I want to thank all the Senators for their cooperation. I think this has been a historic week. I appreciate the leadership from the chairman of the committee and the ranking member. Thank you all very much.

Mr. ROTH. Third reading.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ROTH. I ask unanimous consent that the Senate proceed to the House companion bill, H.R. 2014, and all after the enacting clause be stricken, the text of the Senate amendment be inserted, which includes amendment 449 which was inadvertently dropped, the bill be advanced to third reading, and the Senate proceed to passage of H.R. 2014, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] and the Senator from South Carolina [Mr. HOLLINGS] are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii [Mr. INOUYE] would vote ''aye.''

I further announce that, if present and voting, the Senator from South Carolina [Mr. HOLLINGS] would vote ''no.''

The result was announced—yeas 80, nays 18, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—80

Abraham	Domenici	McCain
Akaka	Dorgan	McConnell
Allard	Enzi	Mikulski
Ashcroft	Feinstein	Moseley-Braun
Baucus	Frist	Moynihan
Bennett	Gorton	Murkowski
Biden	Graham	Murray
Bingaman	Grassley	Nickles
Bond	Gregg	Reid
Boxer	Hagel	Roberts
Breaux	Hatch	Rockefeller
Brownback	Hutchinson	Roth
Bryan	Hutchison	Santorum
Burns	Inhofe	Sessions
Campbell	Jeffords	Shelby
Chafee	Johnson	Smith (NH)
Cleland	Kempthorne	Smith (OR)
Coats	Kerrey	Snowe
Cochran	Kohl	Specter
Collins	Kyl	Stevens
Conrad	Landrieu	Thomas
Coverdell	Lautenberg	Thompson
Craig	Leahy	Thurmond
D'Amato	Lieberman	Torricelli
Daschle	Lott	Warner
DeWine	Lugar	Wyden
Dodd	Mack	

NAYS—18

Bumpers	Glenn	Kerry
Byrd	Gramm	Levin
Durbin	Grams	Reed
Faircloth	Harkin	Robb
Feingold	Helms	Sarbanes
Ford	Kennedy	Wellstone

NOT VOTING—2

Hollings	Inouye

The bill (H.R. 2014), as amended, was passed, as follows:

[H.R. 2014, as amended and passed, can be found at the end of the Senate proceedings for today.]

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER FOR MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that following the wrap-up of the chairman and ranking member, there be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each. I know there are some Senators here wishing to speak. I don't know if the Senators have any wrap-up that they need to do from the Finance Committee. But once that is done, we can continue on to the 5-minute order for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I would like to express my sincere gratitude to my colleagues and good friends who have been instrumental to the successful culmination of this important budget reconciliation process. I am gratified by the results. I think we have indeed made history. We have passed a reconciliation package that balances the budget, while offering American families their first real tax cut in 16 years.

I am happy to say that we have done it in a bipartisan way. It never could have happened, in my humble judgment, without the good will, cooperation, and intelligence of the many Members who have contributed to this important piece of legislation.

In the process, Mr. President, we have made significant progress in our ongoing efforts to preserve and strengthen the Medicare Program, a program of critical importance to our senior citizens, and to give State governments greater voice and authority in the administration of Medicaid. We have increased the ability of families and individuals to save their money, to become more self-reliant, and to invest in the future of America. We have passed significant proposals to help our youth and their families with their education. And we have saved who knows how many family small businesses and farms from extinction wrought by death taxes.

We can go home during this Independent Day recess with our heads held high. We have done what our constituents sent us here to do. As I said, we have accomplished these important objectives in a bipartisan spirit.

Mr. President, the Senate's success of the last few days would not have been possible without the leadership and example of my distinguished colleague and close friend, Senator MOYNIHAN. He is a scholar, a statesman and—perhaps, most important—a gentleman and trusted friend.

I appreciate the other Members of the Senate Finance Committee. It was interesting to watch the process as the cooperative spirit on that committee worked to refine and build rather than denigrate and destroy. The cream indeed rose to the top through our days, weeks, even months of hearings, conferences, meetings, and debates. I am proud of every member and, if time permitted, I would give specific examples of how each one of them rose to the challenge that has resulted in the success we produced today.

Mr. President, I would like to thank, again, the many professional staff members whose work and expertise made this possible. No one appreciates these men and women more than those of us who watch their tireless efforts and depend on their support. Our gratitude to them as individuals, and for their work, is perhaps best demonstrated by the incredible trust we place in their judgment and by the way we depend on their advice and support.

Particularly, Mr. President, among our professional staff, I would like to thank: Lindy Paull, Frank Polk, Mark Prater, Rosemary Becchi, Doug Fisher, Brig Gulya, Sam Olyck, Tom Roesser, Joan Woodward, Ashley Miller, Mark Patterson, Nick Giordano, Patricia McClanahan, Maury Passman, Bill Fant, David Podoff, and also Ken Kies and his capable staff at Joint Tax.

These men and women, along with the leadership of the members on the Finance Committee, share in the tremendous success, a success for which I give them my most sincere thanks and a success, Mr. President, that will bless the lives of all Americans.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, it is characteristic of our revered chairman that he would spend this precious moment at the end of a triumphant legislative process thanking others. It is the part of him that brings us together and brought us together to an extraordinary 80 to 18 vote. I would presume to speak for every member of the committee, and certainly for the Democratic members who have been unanimous on both of these measures in committee, and on the floor today, in expressing our profound appreciation to him, our profound admiration, and our conviction that we will now go on to a successful conference and write some history in our Nation this year.

We shall have a balanced budget. We shall have a health care program for adults and children. And not least, we have had in fact 77 votes in favor of a successful and permanent Amtrak program in this country, a matter of particular concern to him, but both attributable to him. And I thank him.

Again, I thank the Chair, and I yield the floor.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. HOLLINGS. Mr. President, I rise today in opposition of S. 949, the Revenue Reconciliation Act of 1997. I was necessarily absent and unable to vote on the final passage of the bill, but I would like my statement to be recorded in the RECORD.

There has been a great deal of congratulations about how this is the first major tax cut since the Kemp-Roth tax cuts in 1981. I would like to remind everyone of the consequences of that particular measure. Since 1981, our deficits have exploded, growing to as high as $403 billion. Our national debt has soared from under $1 trillion in 1980 to $5.4 trillion this year. The interest costs on this debt have skyrocketed during that period from $74.8 billion to $360 billion, representing spending of $1 billion a day. This money does not go to purchase any new bridges, roads, airports, or any other public good. Instead, it is wasted on servicing this debt. These interest payments, in essence, represent a mammoth tax on the American people which will continue

to rise until we can get our fiscal house in order.

Since 1993, we have made substantial progress toward reducing our deficit. Despite the opposition of every Republican in the Senate, we passed a tough deficit reduction bill which included unpopular tax increases and spending cuts. The results have been clear. Our deficit has fallen for 5 years in a row, unemployment is at a 24 year low, inflation is minimal, interest rates are down, 12.1 million new jobs have been created, and business investment is at a post-war high. Yet, instead of building on this progress, we have chosen to abandon ship and engage in the political temptation of tax cuts.

Mr. President, our Nation is experiencing a period of prosperity, partially because we were courageous enough to make the right choice in 1993 and begin to reduce our deficit. We should stay on this course until we truly balance our books. Instead, this year's budget deal engages in the same old trickery of back loaded tax cuts, borrowed trust funds, and unrealistic economic assumptions. Rather than doing what is right for the American people, we have chosen to do what is right to get us past the next election. I fear, however, that the results of this measure will be felt long after then.●

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Speaker will now be in a period for morning business.

The Senator from Maine.

THE TAXPAYER RELIEF ACT OF 1997

Ms. COLLINS. Mr. President, I rise today to commend the members of the Senate Finance Committee, ably led by chairman ROTH and ranking member MOYNIHAN, for their willingness to work in a bipartisan fashion to bring meaningful and much-needed tax relief to the American people.

The Taxpayer Relief Act of 1997 is extremely important legislation. While it makes many significant changes, I want to focus my remarks on the provisions that will provide long-overdue estate tax relief for family-owned businesses and farms and on those that will help lower- and moderate-income families put their children through college.

The first bill I sponsored as a U.S. Senator was targeted death tax relief for family-owned businesses and farms. This was no accident, for I firmly believe that small, family-owned enterprises hold the key to our economic future. It is these family businesses that will create two-thirds of all new jobs for the people of the United States in the 21st century.

Regrettably, our current tax code penalizes family-owned businesses by making it difficult, if not impossible in some cases, for families to pass the business down from generation to generation. In fact, fewer than one-third of all family-owned businesses survive the transition from the first generation to the second.

Our tax policy should produce the very opposite result, and I am gratified that a strong, bipartisan majority of the Senate Finance Committee recognized this problem and supported action to put us on the right track. Specifically, S. 949 establishes a $1 million exemption from Federal estate taxes for closely-held family businesses, thereby making it easier for parents to pass their business along to their children. My estate tax relief bill, S. 482, contained the very same provision, and I commend the Finance Committee for including it in their legislation which we just passed.

The Finance Committee's proposal will help to make real the dreams of those Americans who work long hours to build a business so they can turn it over to their children. It will help individuals like the potato bag manufacturer in northern Maine who would expand his business and hire more new employees were it not for the money he has to invest in estate planning and insurance. And it will help the small businesswoman in Portland, ME, who wishes to leave her restaurant to her son and avoid the problem she faced when her father died and the family had to sell 24 of their 25 restaurants to pay the estate tax bill.

Mr. President, by preserving family-owned enterprises, we not only strengthen American businesses, we also strengthen American families.

Mr. President, I also want to commend the Finance Committee for including several very important provisions that will help lower- and middle-income families finance college educations for their children. Many of the provisions are similar to those in my legislation, the College Access and Affordability Act of 1997.

For the last 30 years, the Federal Government has helped make post-secondary education available to millions of high school students, thereby giving them a chance to fulfill their potential to the greatest extent possible. The primary vehicles for this invaluable Federal assistance to lower-income and middle-income families have been the Pell grant and student loan programs, both of which I wholeheartedly support.

But our student aid programs have had the unintended consequence of punishing those families who struggle to save for their children's education and then become ineligible for Federal assistance because of their savings. To its credit, the Finance Committee recognized that with the greatly increased cost of a college education, these families also are deserving of help, and it took several important steps in that direction.

First, the bill that we just passed also establishes education investment accounts to help families save for their children's college education. Under this plan, families can contribute up to $2,000 a year to a special savings account and not have to pay taxes on the account's earnings if they use the money for qualified educational expanses, such as room, board, and tuition. Along similar lines, the Finance Committee approved a proposal that allows families who have created Individual Retirement Accounts [IRA's] to withdraw funds for post-secondary and graduate education without penalty.

Second, the Committee's bill allows annual dedications of up to $2,500 for interest paid on student loans. This will help to soften the financial burden on students like the young woman in my State who recently graduated from college with $18,000 in debt and who returned to her home town in rural Maine where high-paying jobs are simply not available.

Finally, the Committee adopted a permanent extension of the section 127 program, which allows employees who receive up to $5,250 in employer-provided tuition assistance to exclude this assistance from their taxable income. We live in times of rapid change when workers may often need new skills to remain employable, and the section 127 program can be the key to making this possible.

Taken together, these proposals represent a major step forward in our efforts to help lower-income and middle-income families finance higher education for themselves and their children. These changes will benefit not only our students but also our Nation, for a better educated population will be better able to compete in our global economy. By making education more affordable for all, we also reaffirm that America is the country of opportunity, where success is there for all who are willing to work for it.

Mr. President, let me conclude my remarks with the observation that S. 949 is notable not only for what it provides but also for how it was produced. Led by their Chair, the members of the Taxation Committee put aside partisan concerns and crafted a bill which can command widespread support both in Congress and in the country. Despite the rhetoric of those bent on sowing the seeds of division, the legislation benefits all Americans, as reflected in the fact that a family of four earning $30,000 will receive a 53 percent tax cut under the plan.

Mr. President, the people of my State want results and not rhetoric, cooperation and not confrontation. The Family Tax Relief Act of 1997 shows what we can accomplish when we honor the wishes of those who sent us here.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

TAX CUTS FOR COLLEGE EDUCATION

Mr. BUMPERS. Mr. President, let me say first of all that in the Senate in 1981 there were only 11 votes cast

against the proposal to cut taxes and increase defense spending to balance the budget—11 Senators. President Reagan's popularity was unbelievable, and there was a herd instinct that swept across this body. It was absolutely unstoppable. And in 1994 when we were going to balance the budget the deficit was up to $200 billion.

I hate to say this. But, in my opinion, Mr. President, 18 people who voted ''no'' today will be more than justly and aptly vindicated when the year 2002 rolls around and we will not have a balanced budget or anything even close to it.

I am chagrined and dismayed that today we are looking at a $67 billion deficit on October 1, and next year, by our own admission and our own actions, the deficit will go to $94 billion —almost $30 billion higher than it is in 1997. To me that is shameful and unforgivable.

The American people have demanded a balanced budget as long as anybody can remember, and today we just forsook the opportunity to meet that nonnegotiable demand of the American people which they have laid on us for years.

Mr. President, I forsook offering an amendment that I felt very strongly about this afternoon. I did it to accommodate our own majority leader who had a plane to catch, and there were a lot of other Senators. I had no disillusions about whether my amendment would pass or not. But I wanted to debate it for 1 minute, and I am perhaps better off taking 5 minutes now to say to whoever may be watching and the Members of this body, ask yourself this question. It goes right to the heart of my amendment.

Do you think the Nation is better off providing a $135 billion tax cut, over 50 percent of which goes to the wealthiest 5 percent of the people in America? Do you think we are better off doing that, or do you think we would be better off providing a college education for the 5 million youngsters whom the New York Times says over the next few years will be excluded from a college education because of skyrocketing costs?

I speak from experience. I spent 3 years in the Marine Corps in World War II. I came home where there was a compassionate, caring, understanding Government which provided the GI bill to my brother and me. I wouldn't be standing on the floor of the Senate today as a U.S. Senator if it had not been for that help from the U.S. Government. Some people think the Government has no obligation to help anybody.

What I am saying is if I had my first choice it would be to put the $135 billion in savings on the deficit, and balance the budget by the year 2000, and no later than 2001. But if we are not going to do that, if we are going to take the $115 billion we cut out of Medicare and spend it on something, I say spend it on college education for youngsters who cannot go to college otherwise.

Mr. President, the greatness of this country has occurred when Members of the U.S. Senate and the House of Representatives had strong convictions about what we need to do as a matter of social, educational, and cultural policy—the GI bill, for example. It takes a giant leap of faith to believe that we can do this—educate every youngster in the country with a college degree.

We found that the average cost of an education in a State-supported university is $7,000 a year. So we simply increased the Pell grant to $7,000. The income criteria would remain as it is now. If you were wealthy or partially wealthy, you wouldn't get the full $7,000. But if you had an income of below a certain amount, you would get the $7,000. We left the two tax provisions that are in this bill that we just passed intact.

Mr. President, I want you to look at this chart so that you can see what I am talking about and where we are headed.

Here are the percentages of people in certain income categories. This is the highest level of income in the country —86 percent of those people go to college. In the next quintile down here, 60 percent, a little less than 60 percent, in 1983 and today, almost 68 percent of those kids go to college. And you get down here in the low-income, and look what happens. It started up—down and up. And now it is down again. If you look at the New York Times article of this past week, you will see that this figure is going to head down.

Mr. President, I am not going to take up a lot of time to say something that everybody knows that we ought to be doing. But I do want to say this. Mr. President, the high school graduates in this country in the past 20 years have lost 18 percent more of their income. When you hear people say the income gap in this country is widening, there it is. High school students lost 18 percent in the last 20 years. Dropouts have lost 25 percent. And, if it continues at the present rate, by the year 2015 high school students will have lost 38 percent of their income because they didn't go to college.

If you want to live in a civilized society, it is this simple. If you want to live in a civilized society, one that is relatively drug free and crime free, if you want to live in a society and in a technological age, we don't have any choice about it. This has to come.

It is one of those things that we need to debate and debate now, and we need to do it. We need to make sure that no child in this country is denied a college education anymore than today we would deny somebody a high school education.

So I forsook offering that amendment even though my staff and I had spent untold hours gathering statistics and information.

I want to conclude as I opened a moment ago. Once again, I ask my brethren in the U.S. Senate and the people of America to ask yourself this one question: Do you think we are better off spending this $135 billion on a tax cut which goes to me, upper-income people, and $12 a year to the stiff out there making $15,000 a year—$12 a year for him? The guy making $15,000 a year gets $12 a year out of this tax bill.

The guy making over $200,000 a year gets $3,500 to $3,700. It is ironic; it does not mean anything to either one of them. To the man making $15,000, $12 does not mean anything in his life; to a man making $200,000, $3,000, or $3,500 does not mean much either. That is what we are doing instead of meeting our obligation. Ask yourself which is more important, that tax cut or educating the children of this country so we can live in a civilized society.

I thank the Chair.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

INCOME AVERAGING

Mr. BURNS. Mr. President, I will not take long. There are some folks I would like to extend my appreciation to. In the Senate today, when we passed the income averaging for our farmers and ranchers in Montana, we fulfilled a commitment that we made to those farmers and ranchers when we passed Freedom to Farm. We are in a transition; subsidies are going away, and now we are providing a vehicle, a tool with which we can maybe ride out the good years and prepare for the bad years without too much trouble.

I express my appreciation to the chairman and the ranking member of the Finance Committee for their help, also the efforts made by Senator ROBERTS of Kansas and Senator BUMPERS of Arkansas, Senator CONRAD of North Dakota and Senator BOND of Missouri and Senator HAGEL of Nebraska and my friend and colleague, Senator BAUCUS from Montana.

Without help from those Senators on this issue, I am afraid we would not have been as successful as we were in justifying and trying to pass income averaging. It is very important. Who is it important to? It is important to the young farmers and ranchers just starting. We know they will have good years and we know they will have bad years right behind them due to the elements of Mother Nature, to prices of commodities raised on our farms and ranches. This allows a way to hang on and spread that income out and survive in agriculture. After all, we produce the best food, the most of it, the cheapest of any country in the world. So this is a winner for all of America, not just American agriculture.

I thank you and I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

CHRISTOPHER F. PATTEN, GOVERNOR OF HONG KONG

Mr. DODD. Mr. President, I rise this afternoon to say a thank you on behalf of myself and I feel a thank you as well on behalf of my 99 colleagues to his Excellency, Christopher F. Patten, the outgoing Governor of Hong Kong. Governor Patten has the particular distinction of being the last of 28 British Governors to preside over Hong Kong before this territory reverts back to the People's Republic of China on July 1—in just a few days.

Chris Patten, as those of us in this body have come to know him over the years, is a truly remarkable individual. He has been a superb administrator and an inspiration to the people who he has sought to govern in Hong Kong.

During his 5 years there, Chris Patten has watched the economy flourish under his stewardship. It grew by more than 30 percent in real terms over that period—a truly impressive performance. He has presided over a capable and honest civil service. Crime has fallen. The political situation has been stable and further democratized.

These are all important achievements, but, in my view, the most important legacy of the Patten administration is that it leaves behind the seeds of democracy firmly planted in the minds and hearts of the people of Hong Kong.

Thanks to Governor Patten and the people of Hong Kong, they were able to experience democracy firsthand by electing members of their local legislature, thereby making good on the British commitment to put in place a solidly based democratic administration.

Sadly, Mr. President, the Chinese have already made the decision to dismantle the elected legislature and to replace it with an appointed council, hand-picked by Beijing. That may work for the moment. In time we will know whether the ''provisional legislature'' installed by Beijing is only a temporary setback to democracy or the first step down a very dark, dark road, indeed. I hope it is not the latter.

Hopefully, Beijing will come to appreciate that it is virtually impossible to totally destroy democratic aspirations. As Governor Patten recently so eloquently put it, ''You can dismantle institutions but you can't dismantle benchmarks. People now know what a fair election is like, and they will surely know what an unfair election is like if one takes place.''

Many political leaders leave office, Mr. President, less than popular with those that they have governed, some deservedly so and others unfairly so, because they have had to make hard choices that only history will record kindly.

Not in the case of Chris Patten, in my view. Although few have had to make tougher decisions than he has, he leaves Hong Kong enormously popular, with 79 percent of the people of Hong Kong viewing him as having done a very good job, indeed.

On Monday, June 30, Governor Patten and his wife, Lavender, and his daughters, Kate, Laura, and Alice, will depart Hong Kong. I am confident that the people of that place will hold Chris Patten in their hearts for years and years to come. As one who considers him a personal friend, I would like to add my personal congratulations and thanks to him for all that he has endeavored to do, and I know that his many, many friends here in this body and the other and across this country, and particularly in Hong Kong, will not forget the challenges he has placed before the Government of the People's Republic of China.

(The remarks of Mr. DODD pertaining to the introduction of S. 983 and Senate Joint Resolution 34 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. DODD. Mr. President, I thank the indulgence of my colleagues, Senator BYRD of West Virginia, Senator GRAHAM of Florida, and Senator BAUCUS of Montana, for their time here this afternoon. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from West Virginia.

Mr. BYRD. Mr. President, I note two other Senators on the floor who will be seeking recognition. May I ask, does either of them have to catch a plane?

Mr. BAUCUS. Yes.

Mr. BYRD. How soon?

Mr. BAUCUS. Tomorrow.

Mr. BYRD. I have to go somewhere tomorrow, too. I thought if the Senator wanted to catch a plane today, I would take my chair again.

Mr. BAUCUS. Thank you.

Mr. BYRD. Mr. President, I ask unanimous consent that I may use as much time as I may consume. I can assure my colleagues it will not be long, but I do not want to be interrupted in the midst of this speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

CELEBRATING THE 4TH OF JULY

Mr. BYRD. Mr. President, last week I was proud to celebrate West Virginia Day, marking the 134th anniversary of the birth of my great State. Born in the midst of a terrible war, the mountain State still bears witness to that difficult four years of struggle, from Harper's Ferry to battle sites across her hills and farmlands. But she also still stands fast, and holds onto the traces of earlier history in her sturdy log barns and cabins and the winding rows of moss-covered stones bounding fields and cemeteries. Crumbling now, these long stone walls are losing their battles to the honeysuckle vines and the frosty upheavals of the centuries, but they remind us still of our forebears who settled this rugged and beautiful country and who bequeathed to us a legacy both tangible and intangible. For just as these early settlers left us these stacked stones, they also left us an even greater gift, a gift no one else on Earth has ever truly shared—our American freedom and the remarkable form of government that keeps Americans free.

Next Friday, on the Fourth of July, we in the United States will celebrate the declaration of our freedom and the announcement of our intent to form a new government, not bound by happenstance of birth or caste, but one that gives each man an equal opportunity to rise above the circumstances of his own beginning and to make of his life whatever his ability and ambition would allow. The government that was painstakingly crafted in the years following this turning point in history combines the best of many forms of government, while avoiding their excesses. I never cease to wonder at our great and lasting fortune in having been blessed with a collection of Founding Fathers who were able to blend so many differing viewpoints and draft a Constitution that is so well thought out, and so finely balanced, that it has survived over the last two centuries with remarkably little change—remarkably little change. It demonstrates an ability to cooperate that has been in rather short supply around here in recent years.

The drafting of the American Constitution was the work of many minds. The Declaration of Independence, though conceived by a committee of five, was penned by a single versatile, very remarkable man. The group formed for this work was comprised of notables including John Adams, Benjamin Franklin, Roger Sherman, Thomas Jefferson, and Robert Livingston—whose namesake graces our Government today with his presence in the other body, Representative and chairman of the Committee on Appropriations in the House of Representatives, BOB LIVINGSTON. These were brave men to undertake what was then an act of treason against the British monarch, King George III. They decided unanimously to select Thomas Jefferson for the delicate job of putting into words the message they wanted to send to George III, and to the world. And of all the powerful and lyrical speeches that have ever been captured on the page, surely the grace, courage, and idealism of the Declaration of Independence ranks high. Thomas Jefferson's legacy to this Nation is a rich one, including the nucleus of our Library of Congress formed from his own collection after the destruction of the War of 1812, his contributions to the Continental Congress, and his service as President. But the soaring majesty of his words—beginning with ''When in the course of human events * * *''—would stand alone as a monument to the man. Even as he lay dying at his mountaintop home in Monticello in 1826, Jefferson struggled to last until the fourth of July before succumbing to the call of the angels. John Adams, who died that same day—what a coincidence, what a coincidence—50 years after the Declaration of Independence was adopted, observed with his last breath that the

young Nation was safe, because ''Jefferson still lives.'' He did not know that his friend had already died a few hours earlier.

The birth of our Nation, like the birth of my beloved State of West Virginia, was marked by conflict ignited by the Declaration of Independence, and the fireworks that we will watch next Friday serve as a vivid reminder of the price of our freedom. But many of us will watch those fireworks amid gatherings of friends and family, and the sting of battle will be but a distant memory. In West Virginia, the Fourth of July is marked in traditional ways, with parades and large family reunions, gatherings of kin from around the State and around the country. In cities like Weirton and Ripley, high school bands and volunteer firemen will step out smartly behind banners carried by majorettes in sequins that glint in the bright afternoon Sun. Local politicians and beauty queens will decorate the open tops of mirror-polished convertibles. And families will cheer as the Stars and Stripes goes past, carried proudly by an Eagle Scout. The very sight of Old Glory stirs the pride in even the most jaded or unpatriotic among us, when it is surrounded by such homespun and heartfelt pageantry.

After the parades, long tables will be laid under the old trees shading the yard—it may be a churchyard; There may be a cemetery nearby. Many hands will share in the labor of cooking, and the fragrance of meat grilling will blend with the sweet aroma of homemade pies and cakes. Children with watermelon juice dripping down their chins will run past grandparents in lawn chairs, waving their sparklers at the darkening sky as the dogs bark and give chase. When finally the fireflies give way to the stars, fathers will set up the roman candles, fountains, and noisemakers in a spectacular reprise of the ''rocket's red glare, the bombs bursting in air,'' penned by Francis Scott Key as he witnessed the battle over Fort McHenry.

And after the glories of the Fourth of July, after the sleepy children are put to bed and the dishes are washed, the gathered kinfolk will scatter like the fallen rocks of the old stone wall, back to their homes, to be gathered again for next year's reunion. The strength of their families goes with them, and the love and pride they have in their union and their country will be renewed. There is no better Nation on Earth, no Nation more blessed, than this one. So, for this happy Fourth, I wish my fellow Senators Godspeed as they go to their many homes throughout the several States of the Union. I wish them all a safe journey in their weekend travels. I also wish God's blessings to all Americans traveling or residing abroad, who will gather at U.S. Embassies to celebrate with their fellow Americans on the Fourth of July in reunions of strangers that are still, intangibly, our kin as citizens. So with God's blessings on everyone, everyone who is a part of the U.S. Senate, everyone who is part of the family of the Senate, we will come together again after we have celebrated the invisible yet lasting legacy of the men who gave us the Fourth of July. Henry Van Dyke captured this deep seated pride and kinship we all feel for our country, and never more so than on this holiday, in his poem, ''America for Me:''

'Tis fine to see the Old World, and travel up and down
Among the famous palaces and cities of renown,
To admire the crumbly castles and the statues of the kings,—
But now I think I've had enough of antiquated things.

So it's home again, and home again, America for me!
My heart is turning home again, and there I long to be,
In the land of youth and freedom beyond the ocean bars,
Where the air is full of sunlight and the flag is full of stars.

Oh, London is a man's town, there's power in the air;
And Paris is a woman's town, with flowers in her hair;
And it's sweet to dream in Venice, and it's great to study Rome
But when it comes to living there is just no place like home.

I like the German fir-woods, in green battalions drilled;
I like the gardens of Versailles with flashing fountains filled;
But, oh, to take your hand, my dear, and ramble for a day
In friendly West Virginia hills where Nature has her way!

I know that Europe's wonderful, yet something seems to lack:
The Past is too much with her, and the people looking back.
But the glory of the Present is to make the Future free,
We love our land for what she is and what she is to be.

Oh, it's home again, and home again, America for me!
I want a ship that's westward bound to plough the rolling sea,
To the blessed Land of Room Enough beyond the ocean bars,
Where the air is full of sunlight and the flag is full of stars.

Mr. President, I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Mr. GRAHAM. Mr. President, it is intimidating to speak after such poetic eloquence. One of the joys of serving in the U.S. Senate is to be part of a permanent class with Senator BYRD. Some students have left for their homes and Fourth of July activities and some of us were able to share in his just concluded statements on behalf of his wonderful State. I thank the Senator.

Mr. BYRD. Mr. President, I thank my honorable friend, the senior Senator from Florida, for his overly gracious and very charitable and kind remarks, and I hope that he and his lovely wife will have a joyous Fourth of July and a safe journey to the great State of Florida and back to Washington when the holiday week is done.

Mr. GRAHAM. I wish the same for Senator BYRD and his family.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 984 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GRAHAM. Thank you, Mr. President.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

TOBACCO PENALTY DEDUCTIBILITY

Mr. BAUCUS. Mr. President, earlier today, Senator HARKIN introduced legislation dealing with the recent agreement between States and the U.S. tobacco industry. Senator HARKIN's provision says simply that the payments from tobacco companies to States should not be tax deductible.

I applaud this effort, and I want to speak for a few moments on the subject and how we might proceed from here.

Last week, a number of State attorneys general reached an agreement with several American tobacco companies. The agreement will compensate the States for their Medicaid spending on people who suffer from smoking-related illnesses, like lung cancer and emphysema, with $368 billion in payments over the next 30 years. It is also supposed to include measures to protect the public health and provide tobacco companies with protections against future losses.

Congress must soon be asked to pass a law implementing this agreement. Because the agreement is very large and very ambitious, we will need a lot of time and study and consultation before we can reach a final judgment. But let me start with a basic principle.

I think we all would agree that a fair negotiated agreement is much better than litigation. But the key word is ''fair.'' The agreement must be fair to States as they pay Medicaid expenses, fair to the Federal Government as it pays for Medicaid and Medicare, fair to kids, fair to the public, and fair to the taxpayers.

Initially, my reaction to the first point is that we should give the attorneys general a lot of deference on fairness to States. After all, they negotiated the agreement. With respect to the Federal contributions to Medicare and Medicaid, though, I am concerned that the agreement may not be fair. On public health, it seems they have come to some very good provisions on advertising, but perhaps weaker provisions on regulation of nicotine.

All this will take some more study. But I see one thing right away which seems to me grossly unfair to taxpayers. That is, under the terms of this agreement, tobacco companies will apparently be able to deduct their compensation payment from their tax bill as ordinary and necessary business expenses.

Thus, the tobacco companies could deduct $368 billion from their taxable income and reduce their tax payments by about $123 billion, assuming we maintain a corporate tax rate of about 33 percent during the course of this agreement. In effect, this would reduce the tobacco companies' payment by $123 billion and force the taxpayers to pick it up instead. That is a full third of the compensation payment to States.

I believe that is wrong. I believe it is unfair. The basis of this whole agreement is the idea that tobacco companies bear some responsibility for the illnesses caused by tobacco and nicotine and should help pick up the tab.

I agree with that. I also feel strongly that ordinary taxpayers are not responsible for the illnesses caused by tobacco, and they should not have to put up $123 billion to pay for the treatment.

Is there a solution to the problem? Yes, there probably is. We should look into the issue, and I believe that the Senate Finance Committee should hold hearings on the tax implications of this settlement.

But already it seems clear that these payments are not necessary business expenses. They are, rather, belated compensation for the health effects of tobacco. I do not think they should be tax deductible. I will explore every means, including legislation if necessary, to make sure this agreement is fair to taxpayers.

REFORM OF THE ENDANGERED SPECIES ACT AND CONSERVATION EASEMENTS

Mr. BAUCUS. Mr. President, on another matter, I wish to inform the Senate that we in the Environment and Public Works Committee are working very diligently to come up with a good solid reform of the Endangered Species Act.

In this respect, I say that Senator KEMPTHORNE, the chairman of the relevant subcommittee, is working very hard with Senator REID, the ranking member of the relevant subcommittee, along with myself and Senator CHAFEE to reform the current Endangered Species Act, including many provisions, such as involving the States much more deeply than they are now, making sure there is peer review by scientific communities, and a host of other changes.

But one change I would like to mention at the moment is an idea in the bill introduced by the Senator from Idaho which very simply states that conservation easements that protect habitat for endangered species should be tax deductible.

I raised this issue in the Finance Committee markup a week ago explaining to members of the committee that this was a new idea, a good idea which would give landowners incentives so that they themselves can protect their own land in a way to avoid problems under the act. But I did not push for the amendment in committee because we were not quite ready for the provisions of the amendment and did not have an appropriate way to pay for it which is called for under the Reconciliation Act.

Senator KEMPTHORNE has introduced a statement today basically calling this matter to the attention of the full Senate, and most particularly to the attention of the conferees.

I say to Senator KEMPTHORNE and others that are interested that I will work diligently, in cooperation with the Senator from Idaho, to see if we can find a way to get that provision passed.

Essentially, Mr. President, we will very soon have a bipartisan Endangered Species Act reauthorization reported out of the Environment and Public Works Committee. I think Senators will be happy in the main with the provisions of this agreement. I compliment, again, Senator KEMPTHORNE, Senator REID, and others who are working, on a very bipartisan basis, to reach this result.

Again, I thank my colleagues for their interest in the tax incentive portion of it because I think that is an important, integral part of this solution.

COMPLIMENTING SENATOR ROTH

Mr. BAUCUS. Mr. President, I very much thank again publicly my chairman of the committee, Senator ROTH, who has heard many, many compliments on his leadership of the committee. I have complimented him many times already. Other Senators have complimented him many, many times. But one cannot compliment him too often because he did a terrific job in coming up with a bipartisan bill, as we know, that passed the Senate not too long ago by a vote of 80 to 18—quite an accomplishment.

Mr. ROTH. If the distinguished Senator from Montana would just yield for a comment. You do not have to stop complimenting. As far as I am concerned, I could sit here all day and listen to it.

Mr. BAUCUS. It may be deserved.

Mr. ROTH. You are very kind. I must say, I think we have all had a great experience of working together. I feel very strongly that this spirit of bipartisanship should continue. I know the Senator from Montana is of the same school as I am.

Mr. BAUCUS. Absolutely. Absolutely.

Mr. ROTH. So have a good recess.

Mr. BAUCUS. You too, Mr. Chairman.

APPOINTMENT BY THE SECRETARY OF THE SENATE

The PRESIDING OFFICER. The Chair announces, on behalf of the Secretary of the Senate, pursuant to Public Law 101–509, his appointment of James F. Blumstein, of Tennessee, to the Advisory Committee on the Records of Congress.

ENCRYPTION POLICY REFORM

Mr. LOTT. Mr. President, I rise today to thank the junior Senator from Montana for his leadership on the important issue. Senator BURNS has led a valiant effort to address an area that I believe is in great need of reform. He has championed the cause of allowing citizens to protect their information through readily available strong information security technology. In the 104th Congress, he introduced legislation that set the stage for our reform efforts in this Congress. Again, last week, Senator BURNS offered a compromise version of his original bill before the Commerce Committee, but unfortunately this measure did not pass. I hope that now we can go through a process to bring all parties together, industry and Government, to try to relieve some of the problems created by current law. We did not accomplish everything that I wanted in Committee, but I am confident that there is still time to improve this legislation. I want to congratulate Senator BURNS and others on the committee like Senator ASHCROFT and Senator DORGAN who have taken the time to understand the technology and to attempt to effectively guide us through these difficult issues.

Mr. President, the demand for strong information security will not abate. Individuals, industry, and governments need the best information security technology to protect their information. The Administration's policy and the McCain-Kerrey bill allow export of 56-bit encryption, with key recovery requirements. How secure is 56-bit encryption? That question was answered the day before the Senate Commerce Committee acted. Responding to a challenge, a secret message encoded with 56-bit encryption was decoded in a brute force supercomputing effort known as the ''Deschall Effort.'' The message that was decoded said ''Strong cryptography makes the world a safer place.''

Now that 56-bit encryption has been cracked by individuals working together over the Internet, information protected by that technology is vulnerable. The need to allow stronger security to protect information is more acute than ever.

Mr. BURNS. Mr. President, I appreciate the comments of the majority leader. I too was opposed to the legislation approved by the committee last week, but know that we still have the opportunity to pass a meaningful bill that will allow American industry to compete with the rest of the world in the global information marketplace. I believe that we can pass a bill that will not compromise our national security or law enforcement interests. As I sat through the markup last week, it occurred to me that we had allowed the issue of encryption to be framed as the

issue of child pornography or gambling. I want to be sure that all parties understand that the reform of encryption security standards is not related to these issues.

I have often said that encryption is simply like putting a stamp on an envelope rather than sending a postcard because you don't want others to read your mail. Encryption is simply about people protecting their private information, about companies and governments protecting their information, from medical records to tax returns to intellectual property from unauthorized access. Hackers, espionage agents, and those just wanting to cause mischief must be restrained from access to private information over the Internet.

When used correctly, encryption can enable citizens in remote locations to have access to the same information, the same technology, the same quality of health care, that citizens of our largest cities have. Perhaps most importantly, it is about ensuring that American companies have the tools they need to continue to develop and provide the leading technology in the global marketplace. Without this leadership, our national security and sovereignty will surely be threatened.

Mr. DORGAN. Mr President, I would like to make a few comments to associate myself with the comments of the majority leader and the Senator from Montana. These two gentlemen have demonstrated great leadership on this issue, and I especially admire their dedication to educate our colleagues about this important issue. I believe that at the bottom line, if we allow this critical technology to be stifled in the United States I believe our national interests will be severely undermined. We must do our best to allow U.S. companies to compete in the world marketplace, and do so without in any way undercutting our national security interests.

I believe that the bill that was reported last week out of the Commerce Committee does not achieve those objectives. In fact, I fear that bill may be nothing more than an attempt to ensure that no bill passes in Congress this year. This would be a victory for the administration, which has rigorously resisted changes to their outdated and obsolete policies. I must say that I try to support the administration on many issues, but on this issue, I have found that their arguments and policies simply do not withstand scrutiny.

And, Mr. President, I was an original sponsor of the Burns bill and I worked very hard with the Senator to help shape the consensus position that was rejected by the committee. I would like to take a few moments to set the record straight about the true differences between the McCain-Kerrey bill and the Burns' approach.

The bill that passed the committee certainly represents a victory for those within the administration opposed to any relaxation of export controls in this area. In fact, it may be a perfect bill from their standpoint. It allows them to begin the process of domestic control while actually freezing exports to a weak enough level of encryption technology that was actually decoded by amateurs the very day before. And it is very unclear to me exactly where the McCain-Kerrey reaches a compromise position.

The Burns' bill however, merely allows that we would allow export of 56-bit encryption immediately, but we would establish a process for understanding the level of encryption that is generally available throughout the world. That review process would include panels and advisory boards consisting of government and industry representatives equipped to determine the security strength of particular software that is available in the world market. Our belief was that it was in the national interest for American software companies to maintain leadership in this area. The very notion that we would let foreign companies get a head start on new technology while forcing American companies to come to a government entity to plead for the right to catch up was troubling enough to both Senator BURNS and myself. But, we agreed to this compromise because we thought it represented the appropriate middle ground.

As the majority leader reminded us, we did not accomplish what many of us had hoped that we would while in Committee, but we will continue to work within the process to improve the legislation. I remain committed to encryption reform and will do everything possible to try to educate my colleagues about this issue.

Mr. ASHCROFT. Mr. President, I would like to add my comments on this important issue. For over 2 years, I have participated in Commerce Committee hearings to learn more about on encryption and the technology issues that it encompasses. Last week, I voted for Senator BURNS' substitute and was disappointed when it was not approved by the committee.

I am concerned about the tone of the discussion at last week's markup. It appeared to me that many on the committee are seeking ways to outlaw the Internet. We are all troubled by any type of child pornography or gambling on the Internet. These are not areas where any member of Congress, any software or hardware vendor, or any member of the general public I know, argues for anything less than the strictest legal provisions. These matters are distasteful and wrong, but even if we eliminated the Internet, we would not eliminate these offensive concerns.

As I said during the markup, we all know that cameras are used in child pornography, but we don't talk of outlawing photography. And, we also know that rental vehicles are often used in terrorist activities, but we don't make it illegal to rent a car or truck.

Mr. President, it appears to me that at the most fundamental level, this debate is about the relationship of our citizens to our Government. We all must take steps to insure that the rights of our citizens are not violated. Our citizens should be able to communicate privately, without the Government listening in—that is one of our most basic rights.

We have to be careful to ensure our law enforcement can have just the necessary amount of access and then only in a manner consistent with our Constitution.

I am persuaded that a number of the new provisions in the McCain-Kerrey bill are not necessary.

I believe that many of the provisions will not even succeed at achieving the end they seek. For example, a false choice has been offered indicating that if the U.S. continues to enforce the export policy on encryption that is currently in place, 40 bit and with special permission up to 56-bit, then law enforcement could apprehend terrorists, stop illegal gamblers and arrest pornographers. However, this argument assumes that these criminals cannot find stronger encryption elsewhere than in the United States. As has been shown several times, this assumption is false. Robust encryption is available. Germany, Japan, and the United Kingdom all have companies, such as Siemens, Nippon and Brokat, that have developed and promote 128 bit encryption. Last week even the supporters of the administration's approach, as expressed in the current legislation, admitted that criminals who want the robust encryption can find access and use strong encryption in their current dealings. This issue is a red herring.

Moreover, the administration announced Wednesday that they will allow the export of 128-bit encryption for bank transaction use involving bank software in an apparent admission of the vulnerability of the 56-bit strength. Also, the administration has continued to tell us during the hearings on encryption and in private meetings with the FBI and NSA, that 128-bit use outside the United States would end in terrible consequences, and now 128-bit use outside the U.S. is being advocated. We should remember that the Burns compromise only wanted to export 128-bit with key recovery for trusted parties. The administration now advocates 128-bit length encryption without any key recovery device, a position that goes beyond the Burn's compromise, which they opposed. My point, Mr. President is that this debate must change. We cannot continue to focus on the key length since these standards become obsolete on a daily basis. We need to focus on allowing trustworthy parties to use robust encryption, not necessarily to sell as encryption but to use in their transactions and in the development of software and hardware.

No nationwide key recovery system, or a new licensing requirement for certificate authorities should be brought to the floor without thorough examination, analysis and understanding. We must further study the impact of these provisions well before this bill is brought to the Senate floor.

Mr. LOTT. Mr. President, I too would like to work with my colleagues to improve the McCain-Kerrey bill before it is brought to the floor. I would like to ask my good friend from Missouri to pay special attention to this bill while it is under consideration by the Judiciary Committee. I know that I can count on him to work hard to improve this important legislation.

Mr. ASHCROFT. Mr President: I want to indicate my willingness to continue to work on this issue. As the majority leader well knows, I am privileged to serve on the Senate Judiciary Committee where we will address this issue after the July recess. I pledge to work with members on that Committee and with other interested Senators and the leader to try to move a bill in that committee that will capture the essence of Burns substitute.

Mr. LOTT. It remains my hope that we can work with Chairman MCCAIN and other members of the Committee to produce a bill that more of us can support. We need to recognize that American industry will have increased difficulty of competing in the international marketplace unless we provide some real reform. It is as if we erected a 30-foot wall between the United States and the rest of the world. The problem is that in today marketplace, American industry only has a 10-foot ladder while their foreign competition has a 35-foot ladder. Foreign firms are able to climb the wall while our American industry faces an insurmountable obstacle. This is both short-sighted and wrong.

If we follow our current path, we will rue the day when we allowed our policies drive world leadership of the important information security business to shift to Germany, Russia, Japan or China. I fully intend to work toward a legislative solution that will help solve the problem while protecting American security interests. We need to create the mechanisms that will allow American companies to have the same sized ladders that the rest of the world can use.

Mr. President, we all appreciate the legitimate law enforcement and national security issues involved in this debate. Our national security and law enforcement agencies need to work with industry to ensure that our interests are protected. I remain convinced that we can do this in a way that insures that our national security and sovereignty remains protected.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, June 26, 1997, the Federal debt, stood at $5,338,210,524,473.68. (Five trillion, three hundred thirty-eight billion, two hundred ten million, five hundred twenty-four thousand, four hundred seventy-three dollars and sixty-eight cents)

One year ago, June 26, 1996, the Federal debt, stood at $5,118,104,000,000. (Five trillion, one hundred eighteen billion, one hundred four million)

Five years ago, June 26, 1992, the Federal debt, stood at $3,946,126,000,000. (Three trillion, nine hundred forty-six billion, one hundred twenty-six million)

Ten years ago, June 26, 1987, the Federal debt, stood at $2,292,475,000,000. (Two trillion, two hundred ninety-two billion, four hundred seventy-five million)

Twenty-five years ago, June 25, 1972, the Federal debt, stood at $425,367,000,000 (Four hundred twenty-five billion, three hundred sixty-seven million) which reflects a debt increase of nearly $5 trillion—$4,912,843,524,473.68 (Four trillion, nine hundred twelve billion, eight hundred forty-three million, five hundred twenty-four thousand, four hundred seventy-three dollars and sixty-eight cents) during the past 25 years.

WHERE ARE THE WIPO TREATIES

Mr. HATCH. Mr. President, for some time now the Judiciary Committee has been working on issues dealing with copyright protection on the Internet and the copyright rights of performers and sound recordings. The Digital Performance Right in Sound Recordings Act that I introduced was passed in 1995, and my National Information Infrastructure Copyright Protection Act was the subject of two hearings in the last Congress. The NII Copyright Protection Act was superseded by the Clinton administration's effort to deal with many of the same issues in the context of two new treaties, the World Intellectual Property Organization [WIPO] Copyright Treaty and the WIPO Performances and Phonograms Treaty.

These treaties were concluded successfully in Geneva in December 1996. Since then, I have been eagerly awaiting the administration's draft of implementation legislation. To date, I have not received such legislation, and the Foreign Relations Committee has not received the treaties. I know that the administration shares the respect that I have for copyright, and I commend Bruce Lehman, the Commissioner of Patents and Trademarks, for the splendid work that he did on negotiating the treaties, but I am concerned that 6 months have passed without draft legislation for the committee to work on.

Both WIPO treaties were completed in record time, because there was a sense of urgency about the vulnerability of U.S. copyrighted works to massive infringement by means of Internet access and about insufficient international copyright protection for sound recordings. Where is this sense of urgency now? Nothing has changed. Our copyright industries are still threatened.

In 1994, copyright-related industries contributed more than $385 billion to the American economy, or more than 5 percent of the total gross domestic product. This represents more than $50 billion in foreign sales, which exceeds every other leading industry sector except automotive and agriculture in contributions to a favorable trade balance. From 1977 to 1994, these same industries grew at a rate that was twice the rate of growth of the national economy, and the rate of job growth in these industries since 1987 has outpaced that of the overall economy by more than 100 percent.

Yet these same industries lost an estimated $18 to $22 billion to foreign piracy in 1995. The film industry alone estimates that its losses due to counterfeiting were in excess of $2.3 billion for that year, even though full-length motion pictures are not yet available on the Internet. The recording industry estimates its annual piracy losses in excess of $1.2 billion, with seizures of bootleg CDS up some 1,300 percent in 1995. These figures promise to grow exponentially as technology provides for quicker, more perfect digital reproduction, which is exactly why timely ratification of the WIPO treaties is so important..

I urge the administration to complete its work and to send the treaties to the Senate. I would like to get the treaties ratified and implementation legislation passed during this session of Congress. That goal may already be unachievable because of administration delay. I hope not. I'll try my best.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2382. A communication from the General Counsel, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, thirteen rules relative to the establishment of class E airspace (RIN2120–AA66), received on June 26, 1997; to the Committee on Commerce, Science, and Transportation.

EC–2383. A communication from the General Counsel, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, a report of twenty-two rules including a rule relative to safety and security regulations (RIN2115–AA97), received on June 26, 1997; to the Committee on Commerce, Science, and Transportation.

EC–2384. A communication from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, a report of four rules including a rule entitled ''Acid Rain Program'' received on June 26, 1997; to the Committee on Environment and Public Works.

EC–2385. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Notice 97–40 received on June 26, 1997; to the Committee on Finance.

EC–2386. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule relative to ''The William D. Ford Federal Direct Loan Program'' (RIN1840–AC43) received on June 26, 1997; to the Committee on Labor and Human Resources.

EC–2387. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule relative to the notice of final funding priorities for fiscal years 1997–1998; to the Committee on Labor and Human Resources.

EC–2388. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule relative to the Impact Aid Program (RIN1810–AA84) received on June 26, 1997; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–147. A resolution adopted by Regional School Board relative to Federal funding under the Individuals With Disabilities Education Act; to the Committee on Appropriations.

POM–148. A petition from citizens of the United States relative to missile testing; to the Committee on Armed Services.

POM–149. A resolution adopted by City Council and Mayor of the City of Youngstown, Ohio relative to the national ambient air quality standards; to the Committee on Environment and Public Works.

POM–150. A resolution adopted by the Board of Supervisors of the County of Los Angeles, California relative to the Intermodal Surface Transportation Efficiency Act; to the Committee on Environment and Public Works.

POM–151. A resolution adopted by the City Council of Clarksville, Tennessee relative to the Land Between the Lakes; to the Committee on Environment and Public Works.

POM–152. A resolution adopted by the Association of Tennessee Valley Governments relative to TVA region; to the Committee on Environment and Public Works.

POM–153. A resolution adopted by the Mayor and Council of the Borough of Little Silver, New Jersey relative to the Mud Dump Site; to the Committee on Environment and Public Works.

POM–154. A resolution adopted by the Governing Body of the Township of Millstone, New Jersey relative to the Mud Dump Site; to the Committee on Environment and Public Works.

POM–155. A resolution adopted by the Township Council of Ocean, Monmouth County, New Jersey relative to the Mud Dump Site; to the Committee on Environment and Public Works.

POM–156. A resolution adopted by the Borough Council of Avalon, Cape May County, New Jersey relative to the Mud Dump Site; to the Committee on Environment and Public Works.

POM–157. A resolution adopted by the Governing Body of the Town of Hammonton, New Jersey relative to the Mud Dump Site; to the Committee on Environment and Public Works.

POM–158. A resolution adopted by the Township Committee of Neptune, New Jersey relative to the Mud Dump Site; to the Committee on Environment and Public Works.

POM–159. A resolution adopted by the Governing Body of the City of Margate City, New Jersey relative to the Mud Dump Site; to the Committee on Environment and Public Works.

POM–160. A resolution adopted by the Commissioners of Osborne County, Kansas relative to the English language; to the Committee on Governmental Affairs.

POM–161. A resolution adopted by City Commissioners of Boyne City, Charlevoix County, Michigan relative to the English language; to the Committee on Governmental Affairs.

POM–162. A resolution adopted by Board of Commissioners of Lapeer County, Michigan relative to the English language; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, with amendments:

S. 621. A bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1997, and for other purposes (Rept. No. 105–41).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BOND:

S. 975. A bill to amend title 23, United States Code, to extend the bridge discretionary program, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BROWNBACK:

S. 976. A bill to reform the financing of Federal elections; to the Committee on Rules and Administration.

By Mr. TORRICELLI (for himself and Mr. KERRY):

S. 977. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and related laws to strengthen the protection of native biodiversity and ban clearcutting on Federal lands, and to designate certain Federal lands as Ancient Forests, Roadless Areas, Watershed Protection Areas, Special Areas, and Federal Boundary Areas where logging and other intrusive activities are prohibited; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 978. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit for a portion of the expenses of providing dependent care services to employees, and for other purposes; to the Committee on Finance.

S. 979. A bill to provide a tax credit to families with elderly family members living in the family home; to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. KERRY, Mr. FEINGOLD, Mrs. FEINSTEIN, and Mr. WELLSTONE):

S. 980. A bill to require the Secretary of the Army to close the United States Army School of the Americas; to the Committee on Armed Services.

By Mr. LEVIN (for himself, Mr. THOMPSON, Mr. GLENN, Mr. ABRAHAM, Mr. ROBB, Mr. ROTH, Mr. ROCKEFELLER, and Mr. STEVENS):

S. 981. A bill to provide for analysis of major rules; to the Committee on Governmental Affairs.

By Mr. MCCONNELL (for himself and Mr. BENNETT):

S. 982. A bill to provide for the protection of the flag of the United States and free speech, and for other purposes; to the Committee on the Judiciary.

By Mr. DODD (for himself and Mr. BIDEN):

S. 983. A bill to prohibit the sale or other transfer of highly advanced weapons to any country in Latin America; to the Committee on Foreign Relations.

By Mr. GRAHAM (for himself, Mr. DEWINE, Mr. MACK, Mr. MCCAIN, and Ms. MOSELEY-BRAUN) (by request):

S. 984. A bill to promote the growth of free enterprise and economic opportunity in the Caribbean Basin region, increase trade and investment between the Caribbean Basin region and the United States, and encourage the adoption by Caribbean Basin countries of policies necessary for participation in the free trade area of the Americas; to the Committee on Finance.

By Mr. TORRICELLI (for himself, Mr. LAUTENBERG, and Mr. HOLLINGS):

S. 985. A bill to designate the post office located at 194 Ward Street in Paterson, New Jersey, as the ''Larry Coby Post Office''; to the Committee on Governmental Affairs.

By Mr. SHELBY (for himself, Mr. SESSIONS, Mr. COVERDELL, Mr. MACK, Mr. CLELAND, and Mr. GRAHAM):

S.J. Res. 32. Joint resolution granting the consent of Congress to the Apalachiocola-Chattahoochee-Flint River Basin Compact; to the Committee on the Judiciary.

By Mr. SHELBY (for himself, Mr. SESSIONS, Mr. CLELAND, and Mr. COVERDELL):

S.J. Res. 33. Joint resolution granting the consent of Congress to the Alabama-Coosa-Tallapoosa River Basin Compact; to the Committee on the Judiciary.

By Mr. DODD (for himself and Mr. MCCAIN):

S.J. Res. 34. Joint resolution suspending the certification procedures under section 490(b) of the Foreign Assistance Act of 1991 in order to foster greater multilateral cooperation in international counternarcotics programs; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HARKIN (for himself, Mr. LAUTENBERG, and Mr. KENNEDY):

S. Res. 104. Resolution to state the sense of the Senate regarding the tax status of payments made as a result of the recent tobacco

liability settlement; to the Committee on Finance.

By Mr. LOTT (for himself, Mr. LIEBERMAN, Mr. MURKOWSKI, Mr. HELMS, Mr. COVERDELL, Mr. MCCONNELL, Mr. ROBB, Mr. THURMOND, Mr. MCCAIN, Mr. NICKLES, Mr. ROTH, Mrs. FEINSTEIN, and Mr. CRAIG):

S. Res. 105. Resolution expressing the sense of the Senate that the people of the United States wish the people of Hong Kong good fortune as they embark on their historic transition of sovereignty from Great Britain to the People's Republic of China; considered and agreed to.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. Con. Res. 35. Concurrent resolution urging the United States Postal Service to issue a commemorative postage stamp to celebrate the 150th anniversary of the First Women's Rights Convention held in Seneca Falls, NY; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND:

S. 975. A bill to amend title 23, United States Code, to extend the bridge discretionary program, and for other purposes; to the Committee on Environment and Public Works.

THE SAFE BRIDGES ACT OF 1997

Mr. BOND. Mr. President, this bill I am introducing today is a bridge discretionary bill. We cannot forget in our reauthorization of the Nation's transportation policy the importance of maintaining our bridges.

Missouri has approximately 23,000 bridges in total.

Unfortunately, the State of Missouri, according to Department of Transportation statistics ranks sixth from the bottom on conditions of bridges in this country. This is a deplorable place for the State of Missouri to be.

We must start taking better care of our roads and bridges and begin building roads for the 21st century—with new technologies, new materials, and better designs.

According to the American Association of State Highway and Transportation Officials America must address the deficiencies of over 11,000 bridges per year just to maintain current levels of condition.

According to the Department of Transportation, the cost to improve bridge conditions would require an annual investment of $8.9 billion.

Let us not lose the hard-won gains in our transportation infrastructure. Let's not squander our investment.

Postponing taking care of our bridge needs only means that our investment declines and to make repairs later will cost more. The cliche does say ''Pay now or pay More later.''

Taking care of our transportation infrastructure can be compared to taking care of your home. If you fail to fix the leaky roof, fail to re-paint, fail to adequately insulate, your costs increase and the value of your home declines.

If we fail to maintain and reinvest in our Nation's bridges not only does the value of our investment decline, but lives are lost and our economic prosperity is jeopardized.

I am pleased to work with my dear friend and House colleague, Congresswoman EMERSON to introduce this bill in both Houses—the Safe Bridges Act of 1997.

The Safe Bridges Act of 1997 is our marker to stress to our colleagues from around the country that bridges are an important and necessary component to this country's transportation system.

Properly maintained and constructed bridges help save lives and provide for the efficient movement of people and goods in this country.

If we want to secure our foundation—we must renew our investment.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 975

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 ''Safe Bridges Act of 1997''.

SEC. 2. FINDINGS.

Congress finds that—

(1) bridges are important and necessary components of the surface transportation system of the United States;

(2) bridges are an important factor in the efficient movement of people and goods;

(3) properly maintained and constructed bridges help save lives;

(4) more than 25 percent of the bridges on the Interstate System are classified as deficient or in poor condition; and

(5) an investment of more than $5,000,000,000 annually is needed to maintain the bridges that are in existence as of the date of enactment of this Act.

SEC. 3. BRIDGE DISCRETIONARY PROGRAM.

(a) EXTENSION OF PROGRAM.—Section 144(g) of title 23, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) DISCRETIONARY BRIDGE PROGRAM.—

''(A) SET ASIDE.—For each fiscal year, before any apportionment is made under subsection (e), the Secretary shall set aside $500,000,000 from the funds authorized to carry out this section.

''(B) USE OF SET ASIDE.—The amount set aside under subparagraph (A) shall be available for obligation in the same manner and to the same extent as the sums apportioned under subsection (e), except that—

''(i) the amount shall be available for obligation at the discretion of the Secretary;

''(ii) for each fiscal year, $8,500,000 of the amount shall be available to carry out section 144A;

''(iii) for each fiscal year, $12,500,000 of the amount shall be available to carry out section 144B;

''(iv) for each fiscal year, $15,000,000 of the amount shall be available to carry out section 144C; and

''(v) the remainder of the amount shall be available in accordance with paragraph (2).

''(C) OTHER STATE FUNDS.—Funds made available to a State under subparagraph (B) shall not be considered in determining the apportionments and allocations that the State shall be entitled to receive, under the other provisions of this title and other law, of amounts in the Highway Trust Fund.''.

(b) HIGHWAY TIMBER BRIDGE RESEARCH AND CONSTRUCTION PROGRAM.—

(1) TRANSFER TO TITLE 23.—Section 1039 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 144 note; 105 Stat. 1990) is—

(A) transferred to title 23, United States Code;

(B) redesignated as section 144A of that title; and

(C) inserted after section 144 of that title.

(2) CONFORMING AMENDMENTS.—

(A) Section 144A of title 23, United States Code (as added by paragraph (1)), is amended—

(i) by striking the section heading and inserting the following:

''§ 144A. Highway timber bridge research and construction program'';

(ii) in subsection (e)—

(I) by striking ''of title 23, United States Code, for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997'' and inserting ''for each of fiscal years 1998 through 2003''; and

(II) in paragraph (2), by striking ''($7,000,000 in the case of fiscal year 1992)''; and

(iii) by striking subsection (f).

(B) The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 144 the following:

''144A. Highway timber bridge research and construction program.''.

SEC. 4. INNOVATIVE HIGHWAY STEEL BRIDGE RESEARCH AND CONSTRUCTION PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 144A (as added by section 3(b)(1)) the following:

''§ 144B. Innovative highway steel bridge research and construction program

''(a) RESEARCH GRANTS.—The Secretary shall make grants to other Federal agencies, universities, private businesses, nonprofit organizations, and research or engineering entities to carry out research concerning—

''(1) the development of new, cost-effective highway steel bridge applications;

''(2) the development of engineering design criteria for steel products and materials for use in highway bridges and structures to improve steel design properties;

''(3) the development of highway steel bridges and structures that will withstand natural disasters;

''(4) the development of products, materials, and systems for use in highway steel bridges that demonstrate new alternatives to current processes and procedures with respect to performance in various environments; and

''(5) rehabilitation measures that demonstrate effective, safe, and reliable methods for the use of steel in rehabilitating highway bridges and structures.

''(b) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under subsection (a) is made available to State and local transportation departments and other interests as specified by the Secretary.

''(c) CONSTRUCTION GRANTS.—

''(1) AUTHORITY.—The Secretary shall make grants to States for projects for the construction of steel bridges and structures on Federal-aid highways.

''(2) APPLICATIONS.—

''(A) SUBMISSION.—A State that desires to receive a grant under this subsection shall submit an application to the Secretary.

''(B) CONTENTS.—The application shall be in such form and contain such information as the Secretary may require by regulation.

''(3) APPROVAL CRITERIA.—The Secretary shall select and approve applications for grants under this subsection based on whether the project that is the subject of the grant—

''(A) has a design that has both initial and long-term structural integrity;

''(B) has an innovative design, product, material, or system that has the potential for increasing knowledge, cost effectiveness, durability, and future use of the innovation; and

''(C) uses practices and construction techniques that comply with all environmental regulations.

''(d) FEDERAL SHARE.—The Federal share of the cost of a research or construction project under this section shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—From the funds reserved from apportionment under section 144(g)(1) for each of fiscal years 1998 through 2003—

''(A) $2,500,000 shall be available to the Secretary to carry out subsections (a) and (b); and

''(B) $10,000,000 shall be available to the Secretary to carry out subsection (c).

''(2) AVAILABILITY.—Sums made available under paragraph (1) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 144A (as added by section 3(b)(2)(B)) the following:

''144B. Innovative highway steel bridge research and construction program.''.

SEC. 5. CARBON COMPOSITE BRIDGE RETROFIT RESEARCH AND DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 144B (as added by section 4(a)) the following:

''§ 144C. Carbon composite bridge retrofit research and demonstration program

''(a) RESEARCH GRANTS.—The Secretary shall make grants to other Federal agencies and to universities, private businesses, nonprofit organizations, and research or engineering entities, in the United States, to carry out research concerning—

''(1) the development of new, economical carbon composite highway bridge retrofit systems;

''(2) the development of engineering design criteria for carbon composite products for use in highway bridges in order to improve methods for characterizing carbon composite design properties;

''(3) deployment systems for the incorporation of carbon composites that demonstrate alternative processes for the seismic retrofit of bridges and the rehabilitation of structurally deficient bridge structures;

''(4) alternative carbon composite transportation system structures that demonstrate the development of applications for lighting support, sound barriers, culverts, and retaining walls in highway infrastructure; and

''(5) additional rehabilitation measures that demonstrate effective, safe, and reliable methods for rehabilitating highway infrastructure with carbon composites.

''(b) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under subsection (a) is made available to State and local transportation departments and other interests as specified by the Secretary.

''(c) CONSTRUCTION GRANTS.—

''(1) AUTHORITY.—The Secretary shall make grants to States for projects for the reconstruction or seismic retrofit of bridges on the National Highway System.

''(2) APPLICATIONS.—

''(A) SUBMISSION.—A State that desires to receive a grant under this subsection shall submit an application to the Secretary.

''(B) CONTENTS.—The application shall be in such form and contain such information as the Secretary may require by regulation.

''(3) APPROVAL CRITERIA.—The Secretary shall select and approve applications for grants under this subsection based on whether the project that is the subject of the grant—

''(A) has a design that has both initial and long-term structural and environmental integrity;

''(B) has a design that uses carbon composite materials;

''(C) has an innovative design that has the potential for increasing knowledge, cost effectiveness, and future use of the design;

''(D) will ensure the structural integrity of a major river crossing in the New Madrid region during a seismic event;

''(E) will extend the service life of a structurally deficient bridge by at least 15 years; and

''(F) uses bridge retrofit technology and material that are produced in the United States.

''(d) FEDERAL SHARE.—The Federal share of the cost of a research or construction project under this section shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—From the funds reserved from apportionment under section 144(g)(1) for each of fiscal years 1998 through 2003—

''(A) $1,000,000 shall be available to the Secretary to carry out subsections (a) and (b); and

''(B) $14,000,000 shall be available to the Secretary to carry out subsection (c).

''(2) AVAILABILITY.—Sums made available under paragraph (1) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 144B (as added by section 4(b)) the following:

''144C. Carbon composite bridge retrofit research and demonstration program.''.

By Mr. TORRICELLI (for himself and Mr. KERRY):

S. 977. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and related laws to strengthen the protection of native biodiversity and ban clearcutting on Federal lands, and to designate certain Federal lands as Ancient Forests, Roadless Areas, Watershed Protection Areas, Special Areas, and Federal Boundary Areas where logging and other intrusive activities are prohibited; to the Committee on Energy and Natural Resources.

THE SAVE AMERICA'S FORESTS ACT

Mr. TORRICELLI. Mr. President, today, Senator KERRY and I are introducing the Save America's Forests Act. I rise to draw this country's attention to the management practices that threaten the health of our Nation's forest lands. When this country was founded over 200 years ago, it is estimated that there was 1 billion acres of forest land across this Nation. Today, 95 percent of those original virgin forests have been cut down.

Forests are unique and valuable public assets. Large, unfragmented forest watersheds provide high-quality water supplies for drinking, agriculture, industry, as well as habitat for recreational and commercial fisheries and other wildlife. The large-scale destruction of natural forests threatens other industries such as tourism and fishing with job loss. As a legacy for the enjoyment, knowledge, and well-being of future generations, provisions must be made for the protection and perpetuation of America's forests. We must also set an example to poorer developing countries to preserve their vast forests so they do not make the same mistakes we did. We cannot call upon these countries to preserve large portions of their rain forests when we do not preserve the last fraction of our own ancient forests.

Clear cutting, even aged logging practices, and timber road construction have been the preferred management practices used on our Federal forests in recent years. These practices have caused widespread forest ecosystem fragmentation and degradation. The result is species extinction, soil erosion, flooding, declining water quality, diminishing commercial and sport fisheries—that is, salmon—and mudslides. Mudslides in Western forest regions during recent winter flooding have caused millions of dollars of environmental and property damage, and resulted in several deaths. An environmentally sustainable alternative to these practices is selection management: the selection system involves the removal of trees of different ages either singly or in small groups in order to preserve the biodiversity of the forest.

Destructive forestry practices such as clearcutting on Federal lands was legalized by the passage of the National Forest Management Act of 1976. From 1984 to 1991, an average of 243,000 acres were clearcut annually on Federal lands. During the same time period an average of only 33,000 acres were harvested using the protective selection management practices. Interpretations of forestry laws have also been used by Federal managers to include the promotion of even age logging and road construction. In addition, the laws are not effective in preserving our forests because in many cases judges do not allow citizens standing in court to ensure that the Forest Service or other agencies follow the environmental protections of the law.

I am introducing this legislation to halt and reverse the effects of deforestation on Federal lands by ending the practice of clearcutting, while promoting environmentally compatible and economically sustainable selection management logging. It is important to note this legislation would only apply to Federal forests which constitute 20 percent of the country's harvestable timber supply, the vast majority of the 490 million acres of harvestable timber are privately owned and unaffected by the bill. This legislation

puts forward positive alternatives that will achieve two principle policies for our Federal forests. First, the act would ban logging and road building in remaining core areas of biodiversity throughout the Federal forest system including roadless areas, specially designated areas and 13 million acres of Ancient Forests. Second, in noncore areas it would abolish environmentally dangerous forms of logging such as clearcutting and even aged logging.

The act requires selection management logging practices to be used whereby timber companies would only be allowed to log a certain percentage of the forests over specified periods of time. Further it takes extra steps to protect watersheds and fisheries by prohibiting logging in buffer areas along streams, lakes, and wetlands. The act would also call for an independent panel of scientists to develop a plan to restore and rejuvenate those forests and their ecosystems that are damaged from decades of these logging practices. And finally, the legislation would empower citizen involvement in insuring compliance with environmental protections of forest management laws by making certain that all citizens have standing to pursue actions in court.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 977

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Act to Save America's Forests''.

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

SEC. 2. PURPOSES AND FINDINGS.

(a) PURPOSES.—The purposes of this Act are, on all Federal public lands, to conserve native biodiversity and to protect all native ecosystems against losses that result from—

(1) clearcutting and other forms of even-age logging; and

(2) logging in Ancient Forests, Roadless Areas, Watershed Protection Areas, Special Areas, and Federal Boundary Areas.

(b) FINDINGS.—Congress finds the following:

(1) Federal agencies of the United States that engage in even-age logging practices include the Forest Service of the Department of Agriculture, the United States Fish and Wildlife Service, Bureau of Land Management, and Bureau of Indian Affairs of the Department of the Interior, and the Army, Navy, and Air Force of the Department of Defense.

(2) Even-age logging causes substantial alterations in native biodiversity by emphasizing the production of a limited number of commercial species of trees on each site, generally only one; by manipulating the vegetation toward greater relative density of such commercial species, by suppressing competing species, and by planting, on numerous sites, a commercial strain that was developed to reduce the relative diversity of genetic strains that previously occurred within the species on the same sites.

(3) Even-age logging kills immobile species and the very young of mobile species of wildlife and depletes the habitat of deep-forest species of animals, including endangered species.

(4) Even-age logging exposes the soil to direct sunlight and the impact of rains, disrupts the surface, and compacts organic layers. It disrupts the run-off restraining capabilities of roots and low-lying vegetation, which results in soil erosion, the leaching our of nutrients, a reduction in the biological content of the soil, and the impoverishment of the soil. All these consequences have a long-range deleterious effect on all land resources, including timber production.

(5) Even-age logging decreases the capability of the soil to retain carbon and, during the critical periods of felling and site preparation, reduces the capacity of the biomass to process and to store carbon, with a resultant of loss of such carbon to the atmosphere, thereby aggravating global warming.

(6) Even-age logging renders the soil increasingly sensitive to acid deposits by causing a decline of soil wood and coarse woody debris, thereby reducing the capacity of the soil to retain water and nutrients, which increases soil heat and impairs the soil's ability to maintain protective carbon compounds on its surface.

(7) Even-age logging results in increased stream sedimentation, the silting of stream bottoms, a decline in water quality, and the impairment of life cycles and spawning processes of aquatic life from benthic organisms to large fish, thereby depleting the sports and commercial fisheries of the United States.

(8) Even-age logging increases harmful edge effects, including blowdowns, invasions by weed species, and heavier losses to predators and competitors.

(9) Even-age logging decreases the land's recreational values, reducing deep, canopied, variegated, permanent forests, thereby limiting areas where the public can fulfill an expending need for recreation. Even-age logging replaces such forests with a surplus of clearings that grow into relatively impenetrable thickets of saplings, and then into monoculture tree plantations.

(10) Human beings depend on native biological resources, including plants, animals, and micro-organisms, for food, medicine, shelter, and other important products, and as a source of intellectual and scientific knowledge, recreation, and aesthetic pleasure.

(11) Alteration of native biodiversity has serious consequences for human welfare as America irretrievably loses resources for research and agricultural, medicinal, and industrial development.

(12) Alteration of biodiversity in Federal forests adversely affects the functions of ecosystems and critical ecosystem processes that moderate climate, govern nutrient cycles and soil conservation and production, control pests and diseases, and degrade wastes and pollutants.

(13) The harm of even-age logging to the natural resources of this Nation and the quality of life of its people are substantial, severe, and avoidable.

(14) By substituting selection management, as prescribed in this Act, for the even-age system, the Federal agencies now engaged in even-age logging would substantially reduce devastation to the environment and would improve the quality of life of the American people.

(15) By protecting native biodiversity, as prescribed in this Act, Federal agencies would maintain vital native ecosystems and would improve the quality of life of the American people.

(16) Selection logging is more job intensive, and therefore provides more employment than even-age logging to manage the same amount of timber production, and produces higher quality sawlogs.

(17) The court remedies now available to enforce Federal forest laws are inadequate, and should be strengthened by providing for injunctions, declaratory judgments, statutory damages, and reasonable costs of suit.

SEC. 3. EFFECTIVE DATE.

(1) IN GENERAL.—This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) EFFECT ON EXISTING CONTRACTS.—The amendments made by this Act shall not apply with respect to any contract to sell timber which was awarded on or before the date of the enactment of this Act.

TITLE I—AMENDMENTS TO EXISTING LAND MANAGEMENT LAWS

SEC. 101. AMENDMENT OF FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT OF 1974 RELATING TO NATIONAL FOREST SYSTEM LANDS.

(a) CONSERVATION OF NATIVE BIODIVERSITY.—Section 6(g)(3)(B) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(g)(3)(B)) is amended to read as follows:

''(B) In each stand and each watershed throughout each forested area, the Secretary shall provide for the conservation or restoration of native biodiversity except during the extraction stage of authorized mineral development or during authorized construction projects, in which events the Secretary shall conserve native biodiversity to the extent possible;''.

(b) COMMITTEE OF SCIENTISTS.—Section 6(h)(1) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(h)(1)) is amended to read as follows:

''(h) COMMITTEE OF SCIENTISTS.—(1) In carrying out the purposes of subsection (g) of this section, the Secretary shall appoint a committee of scientists who are not officers or employees of the Forest Service nor of any other public entity, nor of any entity engaged in whole or in part in the production of wood or wood products, and have not contracted with or represented any such entities within a period of 5 years prior to serving on

such committee. The committee shall provide scientific and technical advice and counsel on proposed guidelines and procedures and all other issues involving forestry and native biodiversity to assure that an effective interdisciplinary approach is proposed and adopted. The committee shall terminate after the expiration of 10 years from the date of the enactment of this paragraph.''.

(c) RESTRICTION ON USE OF CERTAIN LOGGING PRACTICES.—Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) is amended by adding at the end the following:

''(n) RESTRICTION ON USE OF CERTAIN LOGGING PRACTICES.—(1) In each stand and watershed throughout each forested area, the Secretary shall prohibit any even-age logging and any even-age management after the date of the enactment of this subsection.

''(2) On each stand already under even-age management, the Secretary shall (A) prescribe a shift to selection management, or (B) cease managing for timber purposes and actively restore the native biodiversity, or permit each stand to regain its native biodiversity.

''(3) For the purposes of this Act:

''(A) The term 'native biodiversity' means the full range of variety and variability within and among living organisms and the ecological complexes in which they would have occurred in the absence of significant human impact, and encompasses diversity within a species (genetic diversity, species diversity, or age diversity), within a community of species (within-community diversity), between communities of species (between-communities), within a total area such as a watershed (total area), along a plane from ground to sky (vertical), and along the plane of the earth-surface (horizontal). Vertical and horizontal diversity apply to all the other aspects of diversity.

''(B) The terms 'conserve' and 'conservation' refer to protective measures for maintaining existing native biodiversity and active and passive measures for restoring diversity through management efforts, in order to protect, restore, and enhance as much of the variety of species and communities as possible in abundances and distributions that provide for their continued existence and normal functioning, including the viability of populations throughout their natural geographic distributions.

''(C) The term 'within-community diversity' means the distinctive assemblages of species and ecological processes that occur in different physical settings of the biosphere and distinct parts of the world.

''(D) The term 'genetic diversity' means the differences in genetic composition within and among populations of a given species.

''(E) The term 'species diversity' means the richness and variety of native species in a particular location of the world.

''(F) The term 'age diversity' means the naturally occurring range and distribution of age classes within a given species.

''(G) SELECTION MANAGEMENT.—(i) The term 'selection management' means a method of logging that emphasizes the periodic removal of trees, including mature, undesirable, and cull trees in a manner that insures:

''(a) the maintenance of continuous high forest cover where such cover naturally occurs,

''(b) the maintenance or natural regeneration of all native species in a stand, and

''(c) the growth and development of trees through a range of diameter or age classes to provide a sustained yield of forest products.

''(ii) Cutting methods that develop and maintain selection stands are:

''(a) Individual-tree selection, in which individual trees of varying size and age classes are selected and logged in a generally uniform pattern throughout a stand, and

''(b) Group selection, in which small groups of trees are selected and logged.

''(iii) The application of individual-tree selection, group selection, or any other method consistent with selection management shall under no event:

''(a) create a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

''(b) create a stand where the majority of trees are within 10 years of the same age, or

''(c) cut or remove more than 10 percent of the basal area of a stand within 15 years. The foregoing limitation shall not be deemed to establish a 150-year projected felling age as the standard at which individual trees in a stand are to be cut, nor shall native biodiversity be limited to that which occurs within the context of a 150-year projected felling age.

''(H) The term 'stand' means a biological community with enough identity by location, topography, or dominant species to be managed as a unit, not to exceed 100 acres.

''(I) EVEN-AGE LOGGING AND EVEN-AGE MANAGEMENT.—(i) The terms 'even-age logging' and 'even-age management' mean any logging activity which:

''(a) creates a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

''(b) creates a stand where the majority of trees are within 10 years of the same age, or

''(c) cuts or removes more than 10 percent of the basal area of a stand within 15 years.

''(ii) Even-age logging and even-age management include the application of clearcutting, seed-tree cutting, shelterwood cutting, or any other logging method in a manner inconsistent with selection management.

''(J) The term 'clearcutting' means an even-age logging operation that removes all of the trees over a considerable area of a stand at one time.

''(K) The term 'seed-tree' means an even-age logging operation that leaves a small minority of seed trees in a stand for any period of time.

''(L) The term 'shelterwood cut' means an even-age logging operation that leaves a minority (larger than in a seed-tree cut) of the stand as a seed source or protection cover remaining standing for any period of time.

''(M) The term 'timber purposes' shall include the use, sale, lease, or distribution of trees, or the felling of trees or portions of trees except to create land space for a structure or other use.

''(N) The term 'basal area' means the area of the cross section of a tree stem, including the bark, at 4.5 feet above the ground.

''(4)(A)(i) The purpose of this paragraph is to foster the widest possible enforcement of subsection (g)(3)(B) and this subsection.

''(ii) Congress finds that all people of the United States are injured by actions on lands to which subsection (g)(3)(B) and this subsection apply.

''(B) The provisions of subsection (g)(3)(B) and this subsection shall be enforced by the Secretary of Agriculture and the Attorney General of the United States against any person who violates either of them.

''(C)(i) Any citizen harmed by a violation of this Act may enforce any provision of subsection (g)(3)(B) and this subsection by bringing an action for declaratory judgment, temporary restraining order, injunction, statutory damages, and other remedies against any alleged violator including the United States, in any district court of the United States.

''(ii) The court, after determining a violation of either of such subsections, shall impose a damage award of not less than $5,000, shall issue one or more injunctions and other equitable relief, and shall award to the plaintiffs reasonable costs of litigation including attorney's fees, witness fees and other necessary expenses.

''(iii) The standard of proof in all actions brought under this subparagraph shall be the preponderance of the evidence and the trial shall be de novo.

''(D) The damage award authorized by subparagraph (C)(ii) shall be paid by the violator or violators designated by the court to the U.S. Treasury.

''(E) The damage award shall be paid from the U.S. Treasury, as provided by Congress under section 1304 of title 31, United States Code, within 40 days after judgment to the person or persons designated to receive it, to be applied in protecting or restoring native biodiversity in or adjoining Federal land. Any award of costs of litigation and any award of attorney fees shall be paid within 40 days after judgment.

''(F) The United States, including its agents and employees waives its sovereign immunity in all respects in all actions under subsection (g)(3)(B) and this subsection. No notice is required to enforce this subsection.''.

(d) REPEAL.—Section 6(g)(3)(F) of the Forest and Rangeland Renewable Resource Planning Act of 1974 (16 U.S.C. 1604(g)(3)(F)) is hereby repealed.

SEC. 102. AMENDMENT OF FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976 RELATING TO THE PUBLIC LANDS.

(a) CONSERVATION OF NATIVE BIODIVERSITY.—Section 202(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(c)) is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

''(8) In each stand and each watershed throughout each forested area, the Secretary shall provide for the conservation or restoration of native biodiversity except during the extraction stage of authorized mineral development or during authorized construction projects, in which events the Secretary shall conserve native biodiversity to the extent possible;''.

(b) RESTRICTION ON USE OF CERTAIN LOGGING PRACTICES.—Section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) is amended by adding at the end the following:

''(g) RESTRICTION ON USE OF CERTAIN LOGGING PRACTICES.—(1) In each stand and watershed throughout each forested area, the Secretary shall prohibit any even-age logging and any even-age management after the date of the enactment of this subsection.

''(2) On each stand already under even-age management, the Secretary shall (A) prescribe a shift to selection management, or (B) cease managing for timber purposes and actively restore the native biodiversity, or permit each stand to regain its native biodiversity.

''(3) For the purposes of this Act:

''(A) The term 'native biodiversity' means the full range of variety and variability within and among living organisms and the ecological complexes in which they would have occurred in the absence of significant human impact, and encompasses diversity within a species (genetic diversity, species diversity, or age diversity), within a community of species (within-community diversity), between communities of species (between-communities), within a total area such as a watershed (total area), along a plane from ground to sky (vertical), and along the plane of the earth-surface (horizontal). Vertical and horizontal diversity apply to all the other aspects of diversity.

''(B) The terms 'conserve' and 'conservation' refer to protective measures for maintaining existing native biodiversity and active and passive measures for restoring diversity through management efforts, in order to protect, restore, and enhance as much of the variety of species and communities as possible in abundances and distributions that provide for their continued existence and normal functioning, including the viability of populations throughout their natural geographic distributions.

''(C) The term 'within-community diversity' means the distinctive assemblages of species and ecological processes that occur in different physical settings of the biosphere and distinct parts of the world.

''(D) The term 'genetic diversity' means the differences in genetic composition within and among populations of a given species.

''(E) The term 'species diversity' means the richness and variety of native species in a particular location of the world.

''(F) The term 'age diversity' means the naturally occurring range and distribution of age classes within a given species.

''(G) SELECTION MANAGEMENT.—(i) The term 'selection management' means a method of logging that emphasizes the periodic removal of trees, including mature, undesirable, and cull trees in a manner that insures:

''(a) the maintenance of continuous high forest cover where such cover naturally occurs,

''(b) the maintenance or natural regeneration of all native species in a stand, and

''(c) the growth and development of trees through a range of diameter or age classes to provide a sustained yield of forest products.

''(ii) Cutting methods that develop and maintain selection stands are:

''(a) Individual-tree selection, in which individual trees of varying size and age classes are selected and logged in a generally uniform pattern throughout a stand, and

''(b) Group selection, in which small groups of trees are selected and logged.

''(iii) The application of individual-tree selection, group selection, or any other method consistent with selection management shall under no event:

''(a) create a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

''(b) create a stand where the majority of trees are within 10 years of the same age, or

''(c) cut or remove more than 10 percent of the basal area of a stand within 15 years. The foregoing imitation shall not be deemed to establish a 150-year projected felling age as the standard at which individual trees in a stand are to be cut, nor shall native biodiversity be limited to that which occurs within the context of a 150-year projected felling age.

''(H) The term, 'stand' means a biological community with enough identify by location, topography, or dominant species to be managed as a unit, not to exceed 100 acres.

''(I) EVEN-AGE LOGGING AND EVEN-AGE MANAGEMENT.—(i) The term 'even-age logging' and 'even-age management' mean any logging activity which:

''(a) creates a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

''(b) creates a stand where the majority of trees are within 10 years of the same age, or

''(c) cuts or removes more than 10 percent of the basal area of a stand within 15 years.

''(ii) Even-age logging and even-age management include the application of clearcutting, seed-tree cutting, shelterwood cutting, or any other logging method in a manner inconsistent with selection management.

''(J) The term 'clearcutting' means an even-age logging operation that removes all of the trees over a considerable area of a stand at one time.

''(K) The term 'seed-tree cut' means an even-age logging operation that leaves a small minority of seed trees in a stand for any period of time.

''(L) The term 'shelterwood cut' means an even-age logging operation that leaves a minority (larger than in a seed-tree cut) of the stand as a seed source or protection cover remaining standing for any period of time.

''(M) The term 'timber purposes' shall include the use, sale, or lease, or distribution of trees, or the felling of trees or portions of trees except to create land space for a structure or other use.

''(N) The term 'basal area' means the area of the cross section of a tree stem, including the bark, at 4.5 feet above the ground.

''(4)(A)(i) The purpose of this paragraph is to foster the widest possible enforcement of subsection (c)(8) and this subsection.

''(ii) Congress finds that all people of the United States are injured by actions on lands to which subsection (c)(8) and this subsection apply.

''(B) The provisions of subsection (c)(8) and this subsection shall be enforced by the Secretary of the Interior and the Attorney General of the United States against any person who violates either of them.

''(C)(i) Any citizen harmed by a violation of this Act may enforce any provision of subsection (c)(8) and this subsection by bringing an action for declaratory judgment, temporary restraining order, injunction, statutory damages, and other remedies against any alleged violator including the United States, in any district court of the United States.

''(ii) The court, after determining a violation of either of such subsections, shall impose a damage award of not less than $5,000, shall issue one or more injunctions and other equitable relief, and shall award to the plaintiffs reasonable costs of litigation including attorney's fees, witness fees and other necessary expenses.

''(iii) The standard of proof in all actions brought under this subparagraph shall be the preponderance of the evidence and the trial shall be de novo.

''(D) The damage award authorized by subparagraph (C)(ii) shall be paid by the violator or violators designated by the court to the U.S. Treasury.

''(E) The damage award shall be paid from the U.S. Treasury, as provided by Congress under section 1304 of title 31, United States Code, within 40 days after judgment to the person or persons designated to receive it, to be applied in protecting or restoring native biodiversity in or adjoining Federal land. Any award of costs of litigation and any award of attorney fees shall be paid within 40 days after judgment.

''(F) The United States, including its agents and employees waives its sovereign immunity in all respects in all actions under subsection (c)(8) and this subsection. No notice is required to enforce this subsection.''.

''(c) REPEAL.—Subsection (b) of section 701 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 note) is hereby repealed.

SEC. 103. AMENDMENT OF NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966 RELATING TO THE NATIONAL WILDLIFE REFUGE SYSTEM.

Section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) is amended by adding at the end the following:

''(j) CONSERVATION OF NATIVE BIODIVERSITY.—In each stand and each watershed throughout each forested area within the System, the Secretary shall provide for the conservation or restoration of native biodiversity, except during the extraction stage of authorized mineral development or during authorized construction projects, in which events the Secretary shall conserve native biodiversity to the extent possible.

''(k) RESTRICTION ON USE OF CERTAIN LOGGING PRACTICES.—(1) In each stand and watershed throughout each forested area, the Secretary shall prohibit any even-age logging and any even-age management after the date of the enactment of this subsection.

''(2) On each stand already under even-age management, the Secretary shall (A) prescribe a shift to selection management, or (B) cease managing for timber purposes and actively restore the native biodiversity, or permit each stand to regain its native biodiversity.

''(3) For the purposes of this subsection:

''(A) The term 'native biodiversity' means the full range of variety and variability within and among living organisms and the ecological complexes in which they would have occurred in the absence of significant human impact, and encompasses diversity within a species (genetic diversity, species diversity, or age diversity), within a community of species (within-community diversity), between communities of species (between-communities), within a total area such as a watershed (total area), along a plane from ground to sky (vertical), and along the plane of the earth-surface (horizontal). Vertical and horizontal diversity apply to all the other aspects of diversity.

''(B) The term 'conserve' and 'conservation' refer to protective measures for maintaining existing native biodiversity and active and passive measures for restoring diversity through management efforts, in order to protect, restore, and enhance as much of the variety of species and communities as possible in abundances and distributions that provide for their continued existence and normal functioning, including the viability of populations throughout their natural geographic distributions.

''(C) The term 'within-community diversity' means the distinctive assemblages of species and ecological processes that occur in different physical settings of the biosphere and distinct parts of the world.

''(D) The term genetic diversity means the differences in genetic composition within and among populations of a given species.

''(E) The term 'species diversity' means the richness and variety of native species in a particular location of the world.

''(F) The term 'age diversity' means the naturally occurring range and distribution of age classes within a given species.

''(G) SELECTION MANAGEMENT.—(i) The term ''selection management'' means a method of logging that emphasizes the periodic removal of trees, including mature, undesirable, and cull trees in a manner that insures:

(a) the maintenance of continuous high forest cover where such cover naturally occurs,

(b) the maintenance or natural regeneration of all native species in a stand, and

(c) the growth and development of trees through a range of diameter or age classes to provide a sustained yield of forest products.

(ii) Cutting methods that develop and maintain selection stands are:

(a) Individual-tree selection, in which individual trees of varying size and age classes are selected and logged in a generally uniform pattern throughout a stand, and

(b) Group selection, in which small groups of trees are selected and logged.

(iii) The application of individual-tree selection, group selection, or any other method consistent with selection management shall under no event:

(a) create a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

(b) create a stand where the majority of trees are within 10 years of the same age, or

(c) cut or remove more than 10 percent of the basal area of a stand within 15 years. The foregoing limitation shall not be deemed to establish a 150-year projected felling age as the standard at which individual trees in a stand are to be cut, nor shall native biodiversity be limited to that which occurs within the context of a 150-year projected felling age.

''(H) The term ''stand'' means a biological community with enough identity by location, topography, or dominant species to be managed as a unit, not to exceed 100 acres.

''(I) EVEN-AGE LOGGING AND EVEN-AGE MANAGEMENT.—(i) The terms ''even-age logging'' and ''even-age management'' mean any logging activity which:

(a) creates a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

(b) creates a stand where the majority of trees are within 10 years of the same age, or

(c) cuts or removes more than 10 percent of the basal area of a stand within 15 years.

(ii) Even-age logging and even-age management include the application of clearcutting, seed-tree cutting, shelterwood cutting, or any other logging method in a manner inconsistent with selection management.

''(J) The term ''clearcutting'' means an even-age logging operation that removes all of the trees over a considerable area of a stand at one time.

''(K) The term ''seed-tree cut'' means an even-age logging operation that leaves a small minority of seed trees in a stand for any period of time.

''(L) The term ''shelterwood cut'' means an even-age logging operation that leaves a minority (larger than in a seed-tree cut) of the stand as a source or protection cover remaining standing for any period of time.

''(M) The term ''timber purposes'' shall include the use, sale, lease, or distribution of trees, or the felling of trees or portions of trees except to create land space for a structure or other use.

''(N) The term ''basal area'' means the area of the cross section of a tree stem, including the bark, at 4.5 feet above the ground.

''(4)(A)(i) The purpose of this paragraph is to foster the widest possible enforcement of subsection (j) and this subsection.

''(ii) Congress finds that all people of the United States are injured by actions on lands to which subsection (j) and this subsection apply.

''(B) The provisions of subsection (j) and this subsection shall be enforced by the Secretary of the Interior and the Attorney General of the United States against any person who violates either of them.

''(C)(i) Any citizen harmed by a violation of this Act may enforce any provisions of this subsection by bringing an action for declaratory judgment, temporary restraining order, injunction, statutory damages, and other remedies against any alleged violator including the United States, in any district court of the United States.

''(ii) The court, after determining a violation of either of such subsections, shall impose a damage award of not less than $5,000, shall issue one or more injunctions and other equitable relief, and shall award to the plaintiffs reasonable costs of litigation including attorney's fees, witness fees and other necessary expenses.

''(iii) The standard of proof in all actions brought under this subparagraph shall be the preponderance of the evidence and the trial shall be de novo.

''(D) The damage award authorized by subparagraph (C)(ii) shall be paid by the violator or violators designed by the court to the U.S. Treasury.

''(E) The damage award shall be paid from the U.S. Treasury, as provided by Congress under section 1304 of title 31, United States Code, within 40 days after judgment to the person or persons designated to receive it, to be applied in protecting or restoring native biodiversity in or adjoining Federal land. Any award of costs of litigation and any award of attorney fees shall be paid within 40 days after judgment.

''(F) The United States, including its agents and employees waives its sovereign immunity in all respects in all actions under subsection (j) and this subsection. No notice is required to enforce this subsection.''.

SEC. 104. AMENDMENT OF NATIONAL INDIAN FOREST RESOURCES MANAGEMENT ACT RELATING TO INDIAN LANDS.

Section 305 of the National Indian Forest Resources Management Act (25 U.S.C. 4535) is amended by adding at the end the following new subsections:

''(c) CONSERVATION OF NATIVE BIODIVERSITY.—In each stand and each watershed throughout each forested area on Indian lands, the Secretary shall provide for the conservation or restoration of native biodiversity except during the extraction stage of authorized mineral development or during authorized construction projects, in which events the Secretary shall conserve native biodiversity to the extent possible;''.

''(d) RESTRICTION ON USE OF CERTAIN LOGGING PRACTICES.—(1) In each stand and watershed throughout each forested area, the Secretary shall prohibit any even-age logging and any even-age management after the date of the enactment of this subsection.

''(2) On each stand already under even-age management, the Secretary shall (A) prescribe a shift to selection management, or (B) cease managing for timber purposes and actively restore the native biodiversity, or permit each stand to regain its native biodiversity.

''(3) For the purposes of this section:.

''(A) The term ''native biodiversity'' means the full range of variety and variability within and among living organisms and the ecological complexes in which they would have occurred in the absence of significant human impact, and encompasses diversity within a specie (genetic diversity, species diversity, or age diversity), within a community of species (within-community diversity), between communities of species (between-communities), within a total area such as a watershed (total area), along a plane from ground to sky (vertical), and along the plane of the earth-surface (horizontal). Vertical and horizontal diversity apply to all the other aspects of diversity.

''(B) The terms ''conserve'' and ''conservation'' refer to protective measures for maintaining existing native biodiversity and active and passive measures for restoring diversity through management efforts, in order to protect, restore, and enhance as much of the variety of species and communities as possible in abundances and distributions that provide for their continued existence and normal functioning, including the viability of populations throughout their natural geographic distributions.

''(C) The term ''within-community diversity'' means the distinctive assemblages of species and ecological processes that occur in different physical settings of the biosphere and distinct parts of the world.

''(D) The term ''genetic diversity'' means the differences in genetic composition within and among populations of a given species.

''(E) The term ''species diversity'' means the richness and variety of native species in a particular location of the world.

''(F) The term ''age diversity'' means the naturally occurring range and distribution of age classes within a given species.

''(G) SELECTION MANAGEMENT.—(i) The term ''selection management'' means a method of logging that emphasizes the periodic removal of trees, including mature, undesirable, and cull trees in a manner that insures:

''(a) the maintenance of continuous high forest cover where such cover naturally occurs.

''(b) the maintenance or natural regeneration of all native species in a stand, and

''(c) the growth and development of trees through a range of diameter or age classes to provide a sustained yield of forest products.

''(ii) Cutting methods that develop and maintain selection stands are:.

''(a) Individual-tree selection, in which individual trees of varying size and age classes are selected and logged in a generally uniform pattern throughout a stand, and

''(b) Group selection, in which small groups of trees are selected and logged.

''(iii) The application of individual-tree selection, group selection, or any other method consistent with selection management shall under no event:

''(a) create a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

''(b) create a stand where the majority of trees are within 10 years of the same age, or

''(c) cut or remove more than 10 percent of the basal area or a stand within 15 years. The foregoing limitation shall not be. deemed to establish a 150-year projected felling age as the standard at which individual tress in a stand are to be cut, nor shall native biodiversity be limited to that which occurs within the context of a 150-year projected felling age.

''(H) The term ''stand'' means a biological community with enough identity by location, topography, or dominant species to be managed as a unit, not to exceed 100 acres

''(I) EVEN-AGE LOGGING AND EVEN-AGE MANAGEMENT.—(i) The terms ''even-age logging'' and ''even-age management'' mean any logging activity which:

(a) creates a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

(b) creates a stand where the majority of trees are within 10 years of the same age, or

(c) cuts or removes more than 10 percent of the basal area of a stand within 15 years.

''Even-age logging and even-age management include the application of clearcutting, seed-tree cutting, shelterwood cutting, or any other logging method in a manner inconsistent with selection management.

''(J) The term ''clearcutting'' means an even-age logging operation that removes all of the trees over a considerable area of a stand at one time.

''(K) The term ''seed-tree cut'' means an even-age logging operation that leaves a small minority of seed trees in a stand for any period of time.

''(L) The term ''shelterwood cut'' means an even-age logging operation that leaves a minority (larger than in a seed-tree cut) of the stand as a seed source or protection cover remaining standing for any period of time.

''(M) The term ''timber purposes'' shall include the use, sale, lease, or distribution of trees, or the felling of trees or portions of trees except to create land space for a structure or other use.

''(N) The term ''basal area'' means the area of the cross section of a tree stem, including the bark, at 4.5 beet above the ground.

''(4)(A)(i) The purpose of this paragraph is to foster the widest possible enforcement of subsection (c) and this subsection.

''(ii) Congress finds that all people of the United States are injured by actions on lands to which subsection (c) and this subsection apply.

''(B) The provisions of subsection (c) and this subsection shall be enforced by the Secretary of the Interior and the Attorney General of the United States against any person who violates either of them.

''(C)(i) Any citizen harmed by a violation of this Act may enforce any provision of subsection (c) and this subsection by bringing an action for declaratory judgment, temporary restraining order, injunction, statutory damages, and other remedies against any alleged violator including the United States, in any district court of the United States.

''(ii) The court, after determining a violation of either of such subsections shall impose a damage award of not less than $5,000, shall issue one or more injunctions and other equitable relief, and shall award to the plaintiffs reasonable costs of litigation including attorney's fees, witness fees and other necessary expenses.

''(iii) The standard of proof in all actions brought under this subparagraph shall be the preponderance of the evidence and the trial shall be de novo.

''(D) The damage award authorized by subparagraph (C)(ii) shall be paid by the violator or violators designated by the court to the U.S. Treasury.

''(E) The damage award shall be paid from the U.S. Treasury, as provided by Congress under section 1304 of title 31, United States Code, within 40 days after judgment to the person or persons designated to receive it, to be applied in protecting or restoring native biodiversity in or adjoining Federal land. Any award of costs of litigation and any award of attorney fees shall be paid within 40 days after judgment.

''(F) The United States, including its agents and employees waives it sovereign immunity in all respects in all actions under subsection (c) and this subsection. No notice is required to enforce this subsection.''.

SEC. 105. AMENDMENT OF TITLE 10, UNITED STATES CODE, RELATING TO FOREST MANAGEMENT ON MILITARY LANDS.

(a) IN GENERAL.—chapter 159 of title 10, United States Code, is amended by adding at the end the following new section:

''SEC. 2694. CONSERVATION OF NATIVE BIODIVERSITY.

''(a) CONSERVATION OF NATIVE BIODIVERSITY.—In each stand and each watershed throughout each forested area on a military installation or projects administered by the Army Corps of Engineers, the Secretary shall provide for the conservation or restoration of native biodiversity, except during authorized construction projects in which events the Secretary shall conserve native biodiversity to the extent possible.

''(b) RESTRICTION ON USE OF CERTAIN LOGGING PRACTICES.—(1) In each stand and watershed throughout each forested area, the Secretary shall prohibit any even-age logging and any even-age management after the date of the enactment of this subsection.

''(2) On each stand already under even-age management, the Secretary shall (A) prescribe a shift to selection management, or (B) cease managing for timber purposes and actively restore the native biodiversity, or permit each stand to regain its native biodiversity.

''(3) In this section:

''(A) The term ''native biodiversity'' means the full range of variety and variability within and among living organisms and the ecological complexes in which they would have occurred in the absence of significant human impact, and encompasses diversity within a species (genetic diversity, species diversity, or age diversity), within a community of species (within-community diversity), between communities of species (between-communities), within a total area such as a watershed (total area), along a plane from ground to sky (vertical), and along the plane of the earth-surface (horizontal). Vertical and horizontal diversity apply to all the other aspects of diversity.

''(B) The terms ''conserve'' and ''conservation'' refer to protective measures for maintaining existing native biodiversity and active and passive measures for restoring diversity through management efforts, in order to protect, restore, and enhance as much of the variety of species and communities as possible in abundances and distributions that provide for their continued existence and normal functioning, including the viability of populations throughout their natural geographic distributions.

''(C) The term ''within-community diversity'' means the distinctive assemblages of species and ecological processes that occur in different physical settings of the biosphere and distinct parts of the world.

''(D) The term ''genetic diversity'' means the differences in genetic composition within and among populations of a given species.

''(E) The term ''species diversity'' means the richness and variety of native species in a particular location of the world.

(F) The term ''age diversity'' means the naturally occurring range and distribution of age classes within a given ''species.''

(G) SELECTION MANAGEMENT.—(i) The term ''selection management'' means a method of logging that emphasizes the periodic removal of trees, including mature, undesirable, and cull trees in a manner that insures:

(a) the maintenance of continuous high forest cover where such cover naturally occurs.

(b) the maintenance or natural regeneration of all native species in a stand, and

(c) the growth and development of trees through a range of diameter or age classes to provide a sustained yield of forest products.

(ii) Cutting methods that develop and maintain selection stands are:

(a) Individual-tree selection, in which individual trees of varying size and age classes are selected and logged in a generally uniform pattern throughout a stand, and

(b) Group selection, in which small groups of trees are selected and logged.

(iii) The application of individual-tree selection, group selection, or any other method consistent with selection management shall under no event:

(a) create a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

(b) create a stand where the majority of trees are within 10 years of the same age, or

(c) cut or remove more than 10 percent of the basal area of a stand within 15 years. The foregoing limitation shall not be deemed to establish a 150-year projected felling age as the standard at which individual trees in a stand are to be cut, nor shall native biodiversity be limited to that which occurs within the context of a 150-year projected felling age.

''(H) The term ''stand'' means a biological community with enough identity by location, topography, or dominant species to be managed as a unit, not to exceed 100 acres.

''(I) EVEN-AGE, LOGGING, AND EVEN-AGE MANAGEMENT.—(i) The terms ''even-age logging'' and ''even-age management'' mean any logging activity which:

(a) creates a clearing or opening that exceeds in width in any direction the height of the tallest tree standing within 10 feet outside the edge of the clearing or opening, or

(b) create a stand where the majority of trees are within 10 years of the same age, or

(c) cuts or removes more than 10 percent of the basal area of a stand within 15 years.

(ii) Even-age logging and even-age management include the application of clearcutting, seed-tree cutting, shelterwood cutting, or any other logging method in a manner inconsistent with selection management.

''(J) The term ''clearcutting'' means an even-age logging operation that removes all of the trees over a considerable area of a stand at one time.

''(K) The term ''seed-tree cut'' means an even-age logging operation that leaves a small minority of seed trees in a stand for any period of time.

''(L) The term ''shelterwood cut'' means an even-age logging operation that leaves a minority (larger than in a seed-tree cut) of the stand as a seed source or protection cover remaining standing for any period of time.

''(M) The term ''timber purposes'' shall include the use, sale, lease, or distribution of trees, or the felling of trees or portions of trees except to create land space for a structure or other use.

''(N) The term ''basal area'' means the area of the cross section of a tree stem, including the bark, at 4.5 feet above the ground.

''(4)(A)(i) The purpose of this paragraph is to foster the widest possible enforcement of this section.

''(ii) Congress finds that all people of the United States are injured by actions on lands to which this section applies.

''(B) The provisions of this section shall be enforced by the Secretary of Defense and the Attorney General of the United States against any person who violates this section.

''(C)(i) Any citizen harmed by a violation of this Act may enforce any provision of this section by bringing an action for declaratory judgment, temporary restraining order, injunction, statutory damages, and other remedies against any alleged violator including the United States, in any district court of the United States.

''(ii) The court, after determining a violation of this section, shall impose a damage award of not less than $5,000, shall issue one or more injunctions and other equitable relief, and shall award to the plaintiffs reasonable costs of litigation including attorney's fees, witness fees and other necessary expenses.

''(iii) The standard of proof in all actions brought under this subparagraph shall be the preponderance of the evidence and the trial shall be de novo.

''(D) The damage award authorized by subparagraph (C)(ii) shall be paid by the violator or violators designated by the court to the U.S. Treasury.

''(E) The damage award shall be paid from the U.S. Treasury, as provided by Congress under section 1304 of title 31, United States Code, within 40 days after judgment to the person or persons designated to receive it, to be applied in protecting or restoring native biodiversity in or adjoining Federal land. Any award of costs of litigation and any award of attorney fees shall be paid within 40 days after judgment.

''(F) The United States, including its agents and employees waives its sovereign immunity in all respects in all actions under this section. No notice is required to enforce this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 159 of title 10, United States Code, is amended by adding at the end the following new item: ''2694. Conservation of native biodiversity.''.

TITLE II—PROTECTION FOR ANCIENT FORESTS, ROADLESS AREAS, WATERSHED PROTECTION AREAS, SPECIAL AREAS, AND FEDERAL BOUNDARY AREAS

SEC. 201. DEFINITIONS AND FINDINGS.

(a) DEFINITIONS.—For purposes of this title:

(1) EXTRACTIVE LOGGING.—The term ''extractive logging'' means the cutting or removal of any trees from Federal forest lands for any purpose.

(2) ANCIENT FORESTS.—The term ''Ancient Forests'' refers to ''Northwest Ancient Forests'', ''East Side Cascade Ancient Forests'', and ''Sierra Nevada Ancient Forests'' as defined below:

(A) The term ''Northwest Ancient Forests'' refers to—

(i) Federal lands identified as Late-Successional Reserves, Riparian Reserves, and Key Watersheds under the heading ''Alternative 1'' of the report ''Final Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl, Vol. I.'', dated February 1994; and

(ii) Federal lands identified by the term ''Medium and Large Conifer Multi-Storied, Canopied Forests'' as defined in ''Final Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl, Vol. I.'', dated February 1994.

(B) The term ''Eastside Cascade Ancient Forests'' refers to—

(i) Federal lands identified as ''Late-Succession/Old-growth Forest (LS/OG)'' depicted on maps for the Colville, Fremont, Malheur, Ochoco, Umatilla, Wallowa-Whitman and Winema National Forests in the document entitled ''Interim Protection for Late-Successional Forests, Fisheries, and Watersheds: National Forests East of the Cascade Crest, Oregon, and Washington'', prepared by the Eastside Forests Scientific Society Panel (The Wildlife Society, Technical Review 94–2, August 1994);

(ii) Federal lands, east of the Cascade crest in Oregon and Washington defined as ''late successional and old-growth forests'' in the general definition on page 28 of the report entitled ''Interim Protection for Late-Successional Forests, Fisheries, and Watersheds: National Forests East of the Cascade Crest, Oregon, and Washington''; and

(iii) Federal lands classified as ''Oregon Aquatic Diversity Areas'' as defined in the report entitled ''Interim Protection for Late-Successional Forests, Fisheries, and Watersheds: National Forests East of the Cascade Crest, Oregon, and Washington''.

(C) The term ''Sierra Nevada Ancient forests'' refers to

(i) Federal lands identified as ''Areas of Late-Successional Emphasis (ALSE)'' in the document entitled ''Final Report to Congress: Status of the Sierra Nevada'', prepared by the Sierra Nevada Ecosystem Project (Wildland Resources Center Report #40, University of California, David, 1996/97);

(ii) Federal lands identified as ''Late-Successional/Old-Growth Forests Rank, 3, 4 or 5'' in the document entitled ''Final Report to Congress: Status of the Sierra Nevada''; and

(iii) Federal lands identified as ''Potential Aquatic Diversity Management Areas'' in the map on page 1497 of the document entitled ''Final Report to Congress: Status of the Sierra Nevada, Volume II''.

(3) IMPROVED ROADS.—The term ''improved roads'' means any roads maintained for travel by standard passenger type vehicles.

(4) ROADLESS AREAS.—The term ''Roadless Areas'' means those contiguous parcels of Federal land that are devoid of improved roads, except as permitted by subparagraph (B), and—

(A) are greater than or equal to 5,000 acres west of the 100th meridian; or

(B) are greater than or equal to 1,500 acres east of the 100th meridian, but possibly containing up to ½ mile of improved roads per 1,000 acres; or

(C) are less than 5,000 acres, but share a border that is not an improved road with an existing Wilderness Area, Primitive Area, or Wilderness Study Area.

(5) WATERSHED PROTECTION AREAS.—The term ''Watershed Protection Areas'' refers to Federal lands

(A) extending 300 feet from both sides of the active stream channel of any permanently flowing stream or river, or

(B) extending 100 feet from both sides of the active channel of any intermittent, ephemeral or seasonal stream, or any other non-permanently flowing drainage feature having a definable channel and evidence of annual scour or deposition of flow-related debris, or

(C) extending 300 feet from the edge of the maximum level of any natural lake or pond, or

(D) extending 150 feet from the edge of the maximum level of constructed lakes, ponds, or reservoirs and natural or constructed wetlands including.

(6) SPECIAL AREAS.—The term ''Special Areas'' means certain area of Federal land designated in section 202.

(7) FEDERAL BOUNDARY AREAS.—The term ''Federal Boundary Areas'' means lands managed by the Forest Service, Bureau of Land Management, or Fish & Wildlife Service, within 200 feet of a property line.

(8) SECRETARY CONCERNED.—The term ''Secretary concerned'' means the head of the Federal agency having jurisdiction over Federal lands included within an Ancient Forest, Roadless Area, Watershed Protection Area, Special Area, or Federal Boundary Area.

(b) FINDINGS.—Congress finds the following:

(1) Unfragmented forests on Federal lands are unique an valuable assets to the general public which are damaged by extractive logging.

(2) Less than 10 percent of the original unlogged forests of the Untied States remain. The vast majority of the remnants of America's original forests are located on Federal lands.

(3) Large, unfragmented forest watersheds provide high-quality water supplies for drinking, agriculture, industry, and fisheries across the United States.

(4) The most recent scientific studies indicate that several thousand species of plants and animals are dependent on large, unfragmented forest areas.

(5) Many neotropical migratory songbird species are currently experiencing documented broad-scale population declines and require large, unfragmented forests to ensure their survival.

(6) Destruction of large-scale natural forests has resulted in a tremendous loss of jobs in the fishing, hunting, tourism, recreation, and guiding industries, and has adversely affected sustainable nontimber forest products industries such as the collection of mushrooms and herbs.

(7) Extractive logging programs on Federal lands are carried out at enormous financial costs to the United States Treasury and American taxpayers.

(8) The Ancient Forests continue to be threatened by logging and deforestation and are rapidly disappearing.

(9) Ancient Forests help regulate atmospheric balance, maintain biodiversity, and provide valuable scientific opportunity for monitoring the health of the planet.

(10) Prohibiting extractive logging in the Ancient Forests would create the best conditions for ensuring stable, well distributed, and viable populations of the northern spotted owl, marbled murrelet, American marten, and other vertebrates, invertebrates, vascular plants, and nonvascular plants associated with those forests.

(11) Prohibiting extractive logging in the Ancient Forests would create the best conditions for ensuring stable, well distributed, and viable populations of anadromous salmonids, resident salmonids, and bull trout.

(12) Roadless areas are de facto wilderness that provide wildlife habitat and recreation.

(13) Roadless areas contain many of the largest unfragmented forests on Federal lands. Large unfragmented forests are among the last refuges for native animal and plant biodiversity, and are vital to maintaining viable populations of threatened, endangers, sensitive, and rare species.

(14) Roads cause soil erosion, disrupt wildlife migration, and allow nonnative species of plants and animals to invade native forests.

(15) The morality and reproduction patterns of forest dwelling animal populations are adversely affected by traffic-related fatalities that accompany roads.

(16) The exceptional recreational, biological, scientific, or economic assets of certain special forested areas on Federal lands are valuable to the American public and are damaged by extractive logging in these areas.

(17) In order to gauge the effectiveness and appropriateness of current and future resource management activities, and to continue to broaden and develop our understanding of silvicultural practices, many special forested areas need to remain in a natural, unmanaged state to serve as scientifically established baseline control forests.

(18) Certain special forested areas provide habitat for the survival and recovery of endangered and threatened plant and wildlife species such as grizzly bears, spotted owls, Pacific salmon, and Pacific yew that are harmed by extractive logging.

(19) Many special forested areas on Federal lands are considered sacred sites by native peoples.

(20) Ecological, economic, and aesthetic values on private property are damaged by logging and roadbuilding in Federal Boundary Areas.

(21) As a legacy for the enjoyment, knowledge, and well-being of future generations, provisions must be made for the protection and perpetuation of America's Ancient Forests, Roadless Areas, Watershed Protection Areas, Special Areas, and Federal Boundary Areas.

SEC. 202. DESIGNATION OF SPECIAL AREAS.

(a) DESCRIPTION OF SPECIAL AREAS.—

(1) IN GENERAL.—Special areas are parcels of Federal forest land that posses outstanding biological, scenic, recreational, or cultural values, exemplary on a regional, national, or international level, yet may not meet the definitions of Ancient Forests, Roadless Areas, Watershed Protection Areas, or Federal Boundary Areas.

(2) BIOLOGICAL VALUES.—Biological values include—

(A) the presence of threatened or endangered species of plants or animals;

(B) rare or endangered ecosystems;

(C) key habitats necessary for the recovery of endangered or threatened species;

(D) recovery or restoration areas of rare or underrepresented forest ecosystems;

(E) migration corridors;

(F) areas of outstanding biodiversity;

(G) old growth forests;
(H) commercial fisheries; and
(I) sources of clean water such as key watersheds.

(3) SCENIC VALUES.—Scenic values include—
(A) unusual geological formations;
(B) designated wild and scenic rivers;
(C) unique biota; and
(D) vistas.

(4) RECREATIONAL VALUES.—Recreational values include—
(A) designated National Recreational Trails or Recreational Areas;
(B) popular areas for recreation and sports including—
(i) hunting;
(ii) fishing;
(iii) camping;
(iv) hiking;
(v) aquatic recreation; and
(vi) winter recreation;
(C) Federal lands in regions that are underserved in terms of recreation;
(D) lands adjacent to designated Wilderness Areas; and
(E) solitude.

(5) CULTURAL VALUES.—Cultural values include—
(A) sites with Native American religious significance; and
(B) historic or prehistoric archaeological sites eligible for national historic register.

(b) SIZE VARIATION.—Special areas may vary in size to encompass the outstanding biological, scenic, recreational, or cultural value or values to be protected.

(c) DESIGNATION OF SPECIAL AREAS.—For purposes of this title, there are hereby designated the following Special Areas, which shall be subject to the management restrictions specified in section 203(c):

(1) ALABAMA: SIPSEY WILDERNESS.—Certain lands in the Bankhead National Forest in Alabama, which comprise approximately 20,000 acres, located directly west of Highway 33 and directly north of County Road 60, including all of the Sipsey River Watershed north of Cranal Road, known as the ''Sipsey Wilderness''.

(2) ALASKA.—
(A) TURNAGAIN ARM.—Certain lands in the Chugach National Forest, Kenai Peninsula, Alaska, which comprise approximately 100,000 acres, known as ''Turnagain Arm'', extending from sea level to ridgetop surrounding the inlet of Turnagain Arm.
(B) HONKER DIVIDE.—Certain lands in the Tongass National Forest in Alaska, which comprise approximately 75,000 acres, located on north central Prince of Wales Island, comprising the Thorne River and Hatchery Creek watersheds, stretching approximately 40 miles northwest from the vicinity of the town of Thorne Bay to the vicinity of the town of Coffman Cove, generally known as the ''Honker Divide''.

(3) ARIZONA: NORTH RIM OF THE GRAND CANYON.—Certain lands in the Kaibab National Forest, Arizona, included in the Grand Canyon Game Preserve, which comprise approximately 500,000 acres, abutting the northern side of the Grand Canyon in the area generally known as the ''North Rim of the Grand Canyon''.

(4) ARKANSAS.—
(A) COW CREEK DRAINAGE, ARKANSAS.—Certain lands in the Ouachita National Forest, Mena Ranger District, Polk County, Arkansas, comprising approximately 7,000 acres, bounded approximately by the following landmarks: on the north by County Road 95; on the south by County Road 157; on the east by County Road 48 and on the west by the Arkansas-Oklahoma border, known as ''Cow Creek Drainage, Arkansas''.
(B) LEADER AND BRUSH MOUNTAINS.—Certain lands in the Ouachita National Forest of Montgomery and Polk Counties, Arkansas, known as ''Leader and Brush Mountains'', which comprise approximately 120,000 acres located in the vicinity of the Blaylock Creek Watershed between Long Creek and the South Fork of the Saline River.
(C) POLK CREEK AREA.—Certain lands in the Ouachita National Forest, Mena Ranger District, Arkansas, comprising approximately 20,000 acres bounded by Arkansas Highway 4 and Forest Roads 73 and 43 known as the ''Polk Creek Area''.
(D) LOWER BUFFALO RIVER WATERSHED.—Certain lands in the Ozark National Forest, Sylamore Ranger District, totaling approximately 60,000 acres, known as ''The Lower Buffalo River Watershed''. The area is comprised of those Forest Service lands, not already designated as Wilderness, located in the watershed of Big Creek, southwest of the Leatherwood Wilderness Area in Searcy and Marion Counties, Arkansas.
(E) UPPER BUFFALO RIVER WATERSHED.—Certain lands in the Ozark National Forest, Buffalo Ranger District, totaling approximately 220,000 acres known as the ''Upper Buffalo River Watershed''. This area is located approximately 35 miles from the town of Harrison, in Madison, Newton and Searcy Counties, Arkansas. The Upper Buffalo River Watershed is comprised of those Forest Service lands, not already designated as Wilderness Areas, upstream of the confluence of the Buffalo River and Richland Creek and located in the following watersheds: Buffalo River, the various streams comprising the Headwaters of the Buffalo River, Richland Creek, Little Buffalo Headwaters, Edgmon Creek, Big Creek and Cane Creek.

(5) CALIFORNIA: GIANT SEQUOIA PRESERVE.—Certain lands in the Sequoia and Sierra National Forests in California comprised of 3 discontinuous parcels, totaling approximately 442,425 acres known as the ''Giant Sequoia Preserve'' located in Fresno, Tulare, and Kern Counties. All 3 parcels are located in the Southern Sierra Nevada mountain range; the Kings River Unit (145,600 acres) and nearby Redwood Mountain Unit (11,730 acres) are located approximately 25 miles east of the city of Fresno. The South Unit (285,095 acres) is approximately 15 miles east of the city of Porterville.

(6) COLORADO: COCHETOPA HILLS.—Certain lands in the Gunnison Basin area administered by the Gunnison, Grand Mesa, Uncompahgre, and Rio Grand National forests, comprising approximately 500,000 acres, known as the ''Cochetopa Hills''. This area spans the continental divide south and east of Gunnison in Saguache County, Colorado and includes the Elk and West Elk Mountains, Grand Mesa, the Uncompahgre Plateau, the northern San Juan Mountains, the La Garitas Mountains and the Cochetopa Hills.

(7) GEORGIA.—
(A) ARMUCHEE CLUSTER.—Certain lands in the Chattahoochee National Forest, Armuchee Ranger District, totaling approximately 19,700 acres, known as the ''Armuchee Cluster''. The cluster is comprised of three parcels known as Rocky Face, Johns Mountain and Hidden Creek. The cluster is located approximately 10 miles southwest of Dalton and 14 miles north of Rome, Whitfield, Walker, Chattooga, Floyd, and Gordon Counties, Georgia.
(B) BLUE RIDGE CORRIDOR CLUSTER, GEORGIA AREAS.—Certain lands in the Chattahoochee National Forest, Chestatee Ranger District, totaling approximately 15,000 acres, known as the ''Blue Ridge Corridor Cluster, Georgia Areas''. The cluster is comprised of the following 5 parcels: Horse Gap, Hogback Mountain, Blackwell Creek, Little Cedar Mountain, and Black Mountain. The cluster is located approximately 15 to 20 miles north of the town of Dahlonega, Union and Lumpkin Counties, Georgia.
(C) CHATTOOGA WATERSHED CLUSTER, GEORGIA AREAS.—Certain lands in the Chattahoochee National Forest, Tallulah Ranger District, comprising 63,500 acres known as the ''Chattooga Watershed Cluster, Georgia Areas''. This cluster is comprised of 7 areas, located in Rabun County, Georgia, known as the following: Rabun Bald, Three Forks, Ellicott Rock Extension, Rock Gorge, Big Shoals, Thrift's Ferry, and Five Falls. The towns of Clayton, Georgia, and Dillard, South Carolina are situated nearby.
(D) COHUTTA CLUSTER.—Certain lands in the Chattahoochee National Forest, Cohutta Ranger District, totaling approximately 28,000 acres, known as the ''Cohutta Cluster''. The cluster is comprised of four parcels known as Cohutta Extensions, Grassy Mountain, Emery Creek, and Mountaintown. The cluster is located near the towns of Chatsworth and Ellijay, Murray, Fannin, and Gilmer Counties, Georgia.
(E) DUNCAN RIDGE CLUSTER.—Certain lands in the Chattahoochee National Forest, Brasstown and Toccoa Ranger Districts, comprising approximately 17,000 acres known as the ''Duncan Ridge Cluster''. The cluster is comprised of the following four parcels: Licklog Mountain, Duncan Ridge, Board Camp, and Cooper Creek Scenic Area Extension. The cluster is located approximately 10 to 15 miles south of the town of Blairsville in Union and Fannin Counties, Georgia.
(F) ED JENKINS NATIONAL RECREATION AREA CLUSTER.—Certain lands in the Chattahoochee National Forest, Toccoa and Chestatee Ranger Districts, totaling approximately 19,300 acres, known as the ''Ed Jenkins National Recreation Area Cluster''. The cluster is comprised of the Springer Mountain, Mill Creek, and Toonowee parcels. The cluster is located 30 miles north of the town of Dahlonega, Fannin, Dawson, and Lumpkin Counties, Georgia.
(G) GAINESVILLE RIDGES CLUSTER.—Certain lands in the Chattahoochee National Forest, Chattooga Ranger District, totaling approximately 14,200 acres, known as the ''Gainesville Ridges Cluster''. The cluster is comprised of the following three parcels: Panther Creek, Tugaloo Uplands, and Middle Fork Broad River. The cluster is located approximately 10 miles from the town of Toccoa, Habersham and Stephens Counties, Georgia.
(H) NORTHERN BLUE RIDGE CLUSTER, GEORGIA AREAS.—Certain lands in the Chattahoochee National Forest, Brasstown and Tallulah Ranger Districts, totaling approximately 46,000 acres, known as the ''Northern Blue Ridge Cluster, Georgia Areas''. The cluster is comprised of the following eight areas: Andrews Cove, Anna Ruby Falls Scenic Area Extension, High Shoals, Tray Mountain Extension, Kelly Ridge-Moccasin Creek, Buzzard Knob, Southern Nantahala Extension, and Patterson Gap. The cluster is located approximately 5 to 15 miles north of Helen, 5 to 15 miles southeast of Hiawassee, north of Clayton and west of Dillard, White, Towns and Rabun Counties, Georgia.
(I) RICH MOUNTAIN CLUSTER.—Certain lands in the Chattahoochee National Forest, Toccoa Ranger District, totaling approximately 9,500 acres known as the ''Rich Mountain Cluster''. The cluster is comprised of the parcels known as Rich Mountain Extension and Rocky Mountain. The cluster is located 10 to 15 miles northeast of the town of Ellijay, Gilmer and Fannin Counties, Georgia.
(J) WILDERNESS HEARTLANDS CLUSTER, GEORGIA AREAS.—Certain lands in the Chattahoochee National Forest, Chestatee, Brasstown and Chattooga Ranger Districts, comprising approximately 16,500 acres, known as the ''Wilderness Heartlands Cluster, Georgia Areas''. The cluster is comprised

of four parcels known as the following: Blood Mountain Extensions, Raven Cliffs Extensions, Mark Trail Extensions, and Brasstown Extensions. The cluster is located near the towns of Dahlonega, Cleveland, Helen, and Blairsville, Lumpkin, Union, White, and Towns Counties, Georgia.

(8) IDAHO.—

(A) COVE/MALLARD.—Certain lands in the Nez Perce National Forest in Idaho, which comprise approximately 94,000 acres, located approximately 30 miles southwest of the town of Elk City, west of the town of Dixie, in the area generally known as ''Cove/Mallard''.

(B) MEADOW CREEK.—Certain lands in the Nez Perce National Forest in Idaho, which comprise approximately 180,000 acres, located approximately 8 miles east of the town of Elk City in the area generally known as ''Meadow Creek''.

(C) FRENCH CREEK/PATRICK BUTTE.—Certain lands in the Payette National Forest in Idaho, which comprise approximately 141,000 acres, located approximately 20 miles north of the town of McCall in the area generally known as ''French Creek/Patrick Butte''.

(9) ILLINOIS.—

(A) CRIPPS BEND.—Certain lands in the Shawnee National Forest in Illinois, which comprise approximately 39 acres in Jackson County in the Big Muddy River watershed, in the area generally known as ''Cripps Bend''.

(B) OPPORTUNITY AREA 6.—Certain lands in the Shawnee National Forest in Illinois, which comprise approximately 50,000 acres located in northern Pope County, surrounding Bell Smith Springs Natural Area, in the area generally known as ''Opportunity Area 6''.

(C) QUARREL CREEK.—Certain lands in the Shawnee National Forest in Illinois, which comprise approximately 490 acres located in northern Pope County, in the Quarrel Creek watershed, in the area generally known as ''Quarrel Creek''.

(10) MICHIGAN: TRAP HILLS.—Certain lands in the Ottawa National Forest, Bergland Ranger District, totaling approximately 37,120 acres, known as the ''Trap Hills'', located approximately 5 miles from the town of Bergland, Ontonagon County, Michigan.

(11) MINNESOTA.—

(A) TROUT LAKE AND SUOMI HILLS.—Certain lands in the Chippewa National Forest, comprising approximately 12,000 acres, known as ''Trout Lake/Suomi Hills'' in Itasca County, Minnesota.

(B) LULLABY WHITE PINE RESERVE.—Certain lands in the Superior National Forest in Minnesota, Gunflint Ranger District, which comprise approximately 2,518 acres, in the South Brule Opportunity Area, northwest of Grand Marais in Cook County, Minnesota, known as the ''Lullaby White Pine Reserve''.

(12) MISSOURI: ELEVEN POINT-BIG SPRINGS AREA.—Certain lands in the Mark Twain National Forest in Missouri, Eleven Point Ranger District, totaling approximately 200,000 acres, comprised of the administrative area of the Eleven Point Ranger District, known as the ''Eleven Point-Big Springs Area''.

(13) MONTANA: MOUNT BUSHNELL.—Certain lands in the Lolo National Forest in Montana, which comprise approximately 41,000 acres located approximately 5 miles southwest of the town of Thompson Falls in the area generally known as ''Mount Bushnell''.

(14) NEW MEXICO.—

(A) ANGOSTURA.—Certain lands in the east half of the Carson National Forest in New Mexico, Camino Real Ranger District, totaling approximately 10,000 acres located in Township 21, Ranges 12 and 13, known as ''Angostura''. The area's approximate boundaries are as follows: the northeast boundary is formed by Highway 518, the southeast boundary consists of the Angostura Creek watershed boundary, the southern boundary is Trail 19 and the Pecos Wilderness, and on the west, the boundary is formed by the Agua Piedra Creek watershed.

(B) LA MANGA.—Certain lands in the western half of the Carson National Forest, El Rito Ranger District, New Mexico, Vallecitos Sustained Yield Unit, comprising approximately 5,400 acres, known as ''La Manga''. The parcel is in Township 27, Range 6 and bounded on the north by the Tierra Amarilla Land Grant, on the south by Canada Escondida, on the west by the Sustained Yield Unit boundary and the Tierra Amarilla Land Grant, and on the east by the Rio Vallecitos.

(C) ELK MOUNTAIN.—Certain lands in the Santa Fe National Forest, New Mexico, comprising approximately 7,220 acres, known as ''Elk Mountain'' and located in Townships 17 and 18 and Ranges 12 and 13. The area is bounded on the north by the Pecos Wilderness, the Cow Creek Watershed forms the eastern boundary and the Cow Creek, itself, forms the western boundary. The southern boundary is formed by Rito de la Osha.

(D) JEMEZ HIGHLANDS.—Certain lands in the Jemez Ranger District of the Santa Fe National Forest, totaling approximately 54,400 acres, known as the ''Jemez Highlands'', located primarily in Sandoval County, New Mexico.

(15) NORTH CAROLINA.—

(A) CENTRAL NANTAHALA CLUSTER, NORTH CAROLINA AREAS.—Certain lands in the Nantahala National Forest, Tusquitee, Cheoah, and Wayah Ranger Districts, totaling approximately 107,000 acres, known as the ''Central Nantahala Cluster, North Carolina Areas''. The cluster is comprised of the following nine parcels: Tusquitee Bald, Shooting Creek Bald, Cheoah Bald, Piercy Bald, Wesser Bald, Tellico Bald, Split White Oak, Siler Bald, and Southern Nantahala Extensions. The cluster is located near the towns of Murphy, Franklin, Bryson City, Andrews, and Beechertown, Cherokee, Macon, Clay and Swain Counties, North Carolina.

(B) CHATTOOGA WATERSHED CLUSTER, NORTH CAROLINA AREAS.—Certain lands in the Nantahala National Forest, Highlands Ranger District, totaling approximately 8,000 acres, known as the ''Chattooga Watershed Cluster, North Carolina Areas''. The cluster is comprised of the Overflow (Blue Valley) and Terrapin Mountain parcels. The cluster is located five miles from the town of Highlands, Macon and Jackson Counties, North Carolina.

(C) TENNESSEE BORDER CLUSTER, NORTH CAROLINA AREAS.—Certain lands in the Nantahala National Forest, Tusquitee and Cheoah Ranger Districts, totaling approximately 28,000 acres, known as the ''Tennessee Border Cluster, North Carolina Areas''. The cluster is comprised of the four following parcels: Unicoi Mountains, Deaden Tree, Snowbird, and Joyce Kilmer-Slickrock Extension. The cluster is located near the towns of Murphy and Robbinsville, Cherokee and Graham Counties, North Carolina.

(D) BALD MOUNTAINS.—Certain lands in the Pisgah National Forest, French Broad Ranger District, totaling approximately 13,000 acres known as the ''Bald Mountains'', located 12 miles northeast of Hot Springs, Madison County, North Carolina.

(E) BIG IVY TRACT.—Certain lands in the Pisgah National Forest in North Carolina, which comprise approximately 14,000 acres, located approximately 15 miles west of Mount Mitchell in the area generally known as the ''Big Ivy Tract''.

(F) BLACK MOUNTAINS CLUSTER, NORTH CAROLINA AREAS.—Certain lands in the Pisgah National Forest, Toecane and Grandfather Ranger Districts, totaling approximately 62,000 acres, known as the ''Black Mountains Cluster, North Carolina Areas''. The cluster is comprised of the following five parcels: Craggy Mountains, Black Mountains, Jarrett Creek, Mackey Mountain, and Woods Mountain. The cluster is located near the towns of Burnsville, Montreat and Marion, Buncombe, Yancey and McDowell Counties, North Carolina.

(G) LINVILLE CLUSTER.—Certain lands in the Pisgah National Forest, Grandfather Ranger District, totaling approximately 42,000 acres known as the ''Linville Cluster''. The cluster is comprised of the following seven parcels: Dobson Knob, Linville Gorge Extension, Steels Creek, Sugar Knob, Harper Creek, Lost Cove and Upper Wilson Creek. The cluster is located near the towns of Marion, Morgantown, Spruce Pine, Linville, and Blowing Rock, Burke, McDowell, Avery and Caldwell Counties, North Carolina.

H) NOLICHUCKY, NORTH CAROLINA AREA.—Certain lands in the Pisgah National Forest, Toecane Ranger District, totaling approximately 4,000 acres, known as the ''Nolichucky, North Carolina Area'', located 25 miles northwest of Burnsville, Mitchell and Yancy Counties, North Carolina.

(I) PISGAH CLUSTER, NORTH CAROLINA AREAS.—Certain lands in the Pisgah National Forest, Pisgah Ranger District, totaling approximately 52,000 areas, known as the ''Pisgah Cluster, North Carolina Areas''. The cluster is comprised of the following 5 parcels: Shining rock and Middle Prong Extensions, Daniel Ridge, Cedar Rock Mountain, South Mills River, and Laurel Mountain. The cluster is located 5 to 12 miles north of the town of Brevard and southwest of the city of Asheville, Haywood, Transylvania, and Henderson Counties, North Carolina.

(J) WILDCAT.—Certain lands in the Pisgah National Forest, French Broad Ranger District, totaling approximately 6,500 acres, known as ''Wildcat'', located 20 miles northwest of the town of Canton, Haywood County, North Carolina.

(16) OHIO.—

(A) ARCHERS FORK COMPLEX.—Certain lands in the Marietta Unit of the Athens Ranger District, in the Wayne National Forest, Washington County, Ohio, known as ''Archers Fork Complex'', comprising approximately 18,350 acres, located northeast of Newport and bounded by State Highway 26 to the northwest, State Highway 260 to the northeast, the Ohio River to the southeast and Bear Run and Danas Creek to the southwest.

(B) BLUEGRASS RIDGE.—Certain lands in the Ironton Ranger District of the Wayne National Forest, Lawrence County, Ohio, known as ''Bluegrass Ridge'', comprising approximately 4,000 acres, located three miles east of Etna in Township 4 North, Range 17 West, sections 19–23, 27–30.

(C) BUFFALO CREEK.—Certain lands in the Ironton Ranger District of the Wayne National Forest, Lawrence County, Ohio, known as ''Buffalo Creek'', comprising approximately 6,500 acres, located four miles northwest of Waterloo in Township 5 North, Range 17 West, sections 3–10, 15–18.

(D) LAKE VESUVIUS.—Certain lands in the Ironton Ranger District of the Wayne National Forest, Lawrence County, Ohio, comprising approximately 4,900 acres, generally known as ''Lake Vesuvius'', located to the east of Etna and bounded by State Highway 93 to the southwest and State Highway 4 to the northwest in Township 2 North, Range 18 West.

(E) MORGAN SISTERS.—Certain lands in the Ironton Ranger District of the Wayne National Forest, Lawrence County, Ohio, known as ''Morgan Sisters'', comprising approximately 2,500 acres, located one mile east of Gallia and bounded by State Highway

233 in Township 6 North, Range 17 West, sections 13, 14, 23, 24 and Township 5 North, Range 16 West, sections 18, 19.

(F) UTAH RIDGE.—Certain lands in the Athens Ranger District of the Wayne National Forest, Athens County, Ohio, known as ''Utah Ridge'', comprising approximately 9,000 acres, located one mile northwest of Chauncey and bounded by State Highway 682 and State Highway 13 to the southeast, US Highway 33 to the southwest and State Highway 216 and State Highway 665 to the north.

(G) WILDCAT HOLLOW.—Certain lands in the Athens Ranger District of the Wayne National Forest, Perry and Morgan Counties, Ohio, known as ''Wildcat Hollow'', comprising approximately 4,500 acres, located one mile east of Corning in Township 12 North, Range 14 West, sections 1, 2, 11–14, 23, 24, and Township 8 North, Range 13 West, sections 7, 18, 19.

(17) OKLAHOMA: COW CREEK DRAINAGE, OKLAHOMA.—Certain lands in the Ouachita National Forest, Mena Ranger District, Le Flore County, Oklahoma, comprising approximately 3,000 acres, bounded approximately by the Beech Creek National Scenic Area on the west, State Highway 63 on the north and the Arkansas-Oklahoma border on the east, and County Road 9038 on the south, known as ''Cow Creek Drainage, Oklahoma''.

(18) OREGON: APPLEGATE WILDERNESS.—Certain lands in the Siskiyou National Forest and Rouge River National Forest in Oregon, which comprise approximately 20,000 acres, located approximately 20 miles southwest of the town of Grants Pass and 10 miles south of Williams, in the area generally known as the ''Applegate Wilderness''.

(19) SOUTH CAROLINA.—

(A) BIG SHOALS, SOUTH CAROLINA AREA.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 2,000 acres known as ''Big Shoals, South Carolina Area''. This area is located 15 miles south of Highlands, North Carolina.

(B) BRASSTOWN CREEK, SOUTH CAROLINA AREA.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 3,500 acres known as ''Brasstown Creek, South Carolina Area''. This area is located approximately 15 miles west of Westminster, South Carolina.

(C) CHAUGA.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 16,000 acres known as ''Chauga''. This area is located approximately 10 miles west of Walhalla, South Carolina.

(D) DARK BOTTOMS.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 4,000 acres known as ''Dark Bottoms''. This area is located approximately 10 miles northwest of Westminister, South Carolina.

(E) ELLICOTT ROCK EXTENSION, SOUTH CAROLINA AREA.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 2,000 acres known as ''Ellioctt Rock Extension, South Carolina Area''. This area is located approximately 10 miles south of Cashiers, North Carolina.

(F) FIVE FALLS, SOUTH CAROLINA AREA.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 3,500 acres known as ''Five Falls, South Carolina Area''. This area is located approximately 10 miles southeast of Clayton, Georgia.

(G) PERSIMMON MOUNTAIN.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 7,000 acres known as ''Persimmon Mountain''. This area is located approximately 12 miles south of Cashiers, North Carolina.

(H) ROCK GORGE, SOUTH CAROLINA AREA.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 2,000 acres known as ''Rock Gorge, South Carolina Area''. This area is located 12 miles southeast of Highlands, North Carolina.

(I) TAMASSEE.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 5,500 acres known as ''Tamassee''. This area is located 10 miles north of Walhalla, South Carolina.

(J) THRIFT'S FERRY, SOUTH CAROLINA AREA.—Certain lands in the Sumter National Forest, Andrew Pickens Ranger District, Oconee County, South Carolina, comprising approximately 5,000 acres known as ''Thrift's Ferry, South Carolina Area''. This area is located 10 miles east of Clayton, Georgia.

(20) SOUTH DAKOTA.—

(A) BLACK FOX AREA.—Certain lands in the Black Hills National Forest of South Dakota, totaling approximately 12,400 acres, located in the upper reaches of the Rapid Creek watershed known as the ''Black Fox Area''. The area is roughly bounded by FDR 206 in the north, the steep slopes north of Forest Road 231 form the southern boundary and a fork of Rapid Creek forms the western boundary.

(B) BREAKNECK AREA.—Certain lands in the Black Hills National Forest, South Dakota, totaling 6,700 acres along the northeast edge of the Black Hills in the vicinity of the Black Hills National Cemetery and the Bureau of Land Management's Fort Meade Recreation Area known as the ''Breakneck Area''. The area is generally bounded by Forest Roads 139 and 169 on the north, west and south. The eastern and western boundaries are also demarcated by the ridge-crests dividing the watershed.

(C) NORBECK PRESERVE.—Certain lands in the Black Hills National Forest of South Dakota, totaling approximately 27,766 acres known as the ''Norbeck Preserve'' encompassed approximately by the following traverse. Starting at the southeast corner, the area boundary runs north along FDR 753 and U.S. Highway Alt. 16, then along SD 244 to the junction of Palmer Creek Road, which serves generally as a northwest limit. It then heads south from the junction of Highways 87–89, southeast along Highway 87, and east back to FDR 753. A corridor of private land along FDR 345 is excluded.

(D) PIGER MOUNTAIN AREA.—Certain lands in the Black Hills National Forest of South Dakota, comprising approximately 12,600 acres, known as the ''Pilger Mountain Area'' and located in the Elk Mountains on the southwest edge of the Black Hills. This area is roughly bounded by Forest Roads 318 and 319 on the east and northeast, Road 312 on the north and northwest, and private land to the southwest.

(E) STAGEBARN CANYONS.—Certain lands in the Black Hills National Forest, South Dakota, known as ''Stagebarn Canyons'', which comprise approximately 7,300 acres located approximately 10 miles west of Rapid City, South Dakota.

(21) TENNESSEE.—

(A) BALD MOUNTAINS CLUSTER, TENNESSEE AREAS.—Certain lands in the Nolichucky and Unaka Ranger Districts of the Cherokee National Forest, Cooke, Green, Washington and Unicoi Counties, Tennessee, comprising approximately 46,133 acres known as the ''Bald Mountains Cluster, Tennessee Areas''. This Cluster is comprised of the following parcels known as: Laurel Hollow Mountain, Devil's Backbone, Laurel Mountain, Walnut Mountain, Wolf Creek, Meadow Creek Mountain, Brush Creek Mountain, Paint Creek, Bald Mountain and Sampson Mountain Extension. These parcels are located near the towns of Newport, Hot Springs, Greeneville and Erwin, Tennessee.

(B) BIG FROG/COHUTTA CLUSTER.—Certain lands in the Cherokee National Forest, Polk County, Tennessee, Ocoee, Hiwassee, and Tennessee Ranger Districts, comprising approximately 28,800 acres known as the ''Big Frog/Cohutta Cluster''. This Cluster is comprised of the following parcels: Big Frog Extensions, Little Frog Extensions, Smith Mountain and Rock Creek. These parcels are located near the towns of Copperhill, Ducktown, Turtletown and Benton, Tennessee.

(C) CITICO CREEK WATERSHED CLUSTER TENNESSEE AREAS.—Certain lands in the Tellico Ranger District of the Cherokee National Forest, Monroe County, Tennessee, comprising approximately 14,256 acres known as the ''Citico Creek Watershed Cluster, Tennessee Areas''. This Cluster is comprised of the following parcels known as: Flats Mountain, Miller Ridge, Cowcamp Ridge and Joyce Kilmer-Slickrock Extension. These parcels are located near the town of Tellico Plains, Tennessee.

(D) IRON MOUNTAINS CLUSTER.—Certain lands in the Cherokee National Forest, Watauga Ranger District, totaling approximately 58,090 acres known as the ''Iron Mountains Cluster''. The cluster is comprised of the following 8 parcels: Big Laurel Branch Addition, Hickory Flat Branch, Flint Mill, Lower Iron Mountain, Upper Iron Mountain, London Bridge, Beaverdam Creek, and Rodgers Ridge. The cluster is located near the towns of Briston and Elizabethton, Sullivan and Johnson Counties, Tennessee.

(E) NORTHERN UNICOI MOUNTAINS CLUSTER.—Certain lands in the Tellico Ranger District of the Cherokee National Forest, Monroe County, Tennessee, comprising approximately 30,453 acres known as the ''Northern Unicoi Mountains Cluster''. This Cluster is comprised of the following parcels known as: Bald River Gorge Extension, Upper Bald River, Sycamore Creek and Brushy Ridge. These parcels are located near the town of Tellico Plains, Tennessee.

(F) ROAN MOUNTAINS CLUSTER.—Certain lands in the Cherokee National Forest, Unaka and Watauga Ranger Districts, totaling approximately 23,725 acres known as the ''Roan Mountain Cluster''. The cluster is comprised of the following seven parcels: Strawberry Mountain, Highlands of Roan, Ripshin Ridge, Doe River Gorge Scenic Area, White Rocks Mountain, Slide Hollow and Watauga Reserve. The cluster is located approximately eight to twenty miles south of the town of Elizabethton, Unicoi, Carter and Johnson Counties, Tennessee.

(G) SOUTHERN UNICOI MOUNTAINS CLUSTER.—Certain lands in the Hiwassee Ranger District of the Cherokee National Forest, Polk, Monroe and McMinn Counties, Tennessee, comprising approximately 11,251 acres known as the ''Southern Unicoi Mountains Cluster''. This Cluster is comprised of the following parcels known as: Gee Creek Extension, Coker Creek and Buck Bald. These parcels are located near the towns Etowah, Benton and Turtletown, Tennessee.

(H) UNAKA MOUNTAINS CLUSTER, TENNESSEE AREAS.—Certain lands in the Cherokee National Forest, Unaka Ranger District, totaling approximately 15,669 acres known as the ''Unaka Mountains Cluster, Tennessee areas''. The cluster is comprised of the Nolichucky, Unaka Mountain Extension and Stone Mountain parcels. The cluster is located approximately eight miles from Erwin, Unicoi and Carter Counties, Tennessee.

(22) TEXAS: LONGLEAF RIDGE.—Certain lands in the Angelina National Forest, Jasper and Angelina Counties, Texas, comprising approximately 30,000 acres bounded on the west by Upland Island Wilderness Area, on the south by the Neches River, and on the northeast by Sam Rayburn Reservoir, generally known as ''Longleaf Ridge''.

(23) VERMONT.—

(A) GLASTENBURY AREA.—Certain lands in the Green Mountain National Forest in Vermont, which comprise approximately 35,000 acres, located 3 miles northeast of Bennington, bounded by Kelly Stand Road to the North, Forest Road 71 to the east, Route 9 to the south and Route 7 to the west, generally known as the ''Glastenbury Area''.

(B) LAMB BROOK.—Certain lands in the Green Mountain National Forest in Vermont, which comprise approximately 5,500 acres, located 3 miles southwest of Wilmington, bounded on the west and south by Routes 8 and 100, on the north by Route 9, and on the east by New England Power Company lands, generally known as ''Lamb Brook''.

(C) ROBERT FROST MOUNTAIN AREA.—Certain lands in the Green Mountain National Forest, Vermont, comprising approximately 8,500 acres, known as ''Robert Frost Mountain Area'', northeast by Middlebury, consisting of the Forest Service lands bounded on the west by Route 116, on the north by Bristol Notch Road, on the east by Lincoln/Ripton Road and on the south by Route 125.

(24) VIRGINIA.—

(A) BEAR CREEK.—Certain lands known as ''Bear Creek'', in the Jefferson National Forest, Wythe Ranger District, north of Rural Retreat, Smyth and Wythe Counties, Virginia.

(B) CAVE SPRINGS.—Certain lands known as ''Cave Springs'', in the Jefferson National Forest, Clinch Ranger District, comprising approximately 3,000 acres located between State Route 621 and the North Fork of the Powell River, Lee County, Virginia.

(C) DISMAL CREEK.—Certain lands known as ''Dismal Creek'' totaling approximately 6,000 acres in the Jefferson National Forest, Blacksburg Ranger District, north of State Route 42, Giles and Bland Counties, Virginia.

(D) STONE COAL CREEK.—Certain lands known as ''Stone Coal Creek'', totaling approximately 2,000 acres in the Jefferson National Forest, New Castle Ranger District, Craig and Botentourt Counties, Virginia.

(E) WHITE OAK RIDGE: TERRAPIN MOUNTAIN.—Certain lands known as ''White Oak Ridge—Terrapin Mountain'', totaling approximately 8,000 acres, Glenwood Ranger District of the Jefferson National Forest, east of the Blue Ridge Parkway, Botetourt and Rockbridge Counties, Virginia.

(F) WHITETOP MOUNTAIN.—Certain lands in the Jefferson National Forest, Mt. Rodgers Recreation Area, comprising 3,500 acres in Washington, Smyth and Grayson Counties, Virginia, known as ''Whitetop Mountain''.

(G) WILSON MOUNTAIN.—Certain lands known as ''Wilson Mountain,'' comprising approximately 5,100 acres in the Jefferson National Forest, Glenwood Ranger District, east of Interstate 81, Botetourt and Rockbridge Counties, Virginia.

(H) FEATHERCAMP.—Certain lands located in the Mt. Rodgers Recreation Area of the Jefferson National Forest, comprising 4,974 acres, known as ''Feathercamp,'' in Washington County, Virginia, located northeast of the town of Damascus and north of State Route 58 on the Feathercamp ridge.

(25) WISCONSIN.—

(A) FLYNN LAKE.—Certain lands in the Chequamegon National Forest, Washburn Ranger District, totaling approximately 5,700 acres within the Flynn Lake Semi-primitive Non-motorized Area, known as ''Flynn Lake.'' The site is located in Bayfield County, Wisconsin.

(B) GHOST LAKE CLUSTER.—Certain lands in the Chequamegon National Forest, Great Divide Ranger District, totaling approximately 6,000 acres, known as ''Ghost Lake Cluster'' and including parcels known as Chost Lake, Perch Lake, Lower Teal River, Foo Lake, and Bulldog Springs. The cluster is located in Sawyer County, Wisconsin.

(C) LAKE OWENS CLUSTER.—Certain lands in the Chequamegon National Forest, Great Divide and Washburn Ranger Districts, totaling approximately 3,600 acres, known as ''Lake Owens Cluster'' and including parcels known as or near Lake Owens, Sage, Hidden, and Deer Lick Lakes, Eighteenmile Creek, and Northeast and Sugarbush Lakes. The cluster is in Bayfield County, Wisconsin.

(D) MEDFORD CLUSTER.—Certain lands in the Chequamegon National Forest, Medford-Park Falls Ranger District, totaling approximately 23,000 acres, known as the ''Medford Cluster,'' and including parcels known as County E. Hardwoods, Silver Creek/Mondeaux River Bottoms, Lost Lake Esker, North and South Fork Yellow Rivers, Bear Creek, Brush Creek, Chequamegon Waters, John's and Joseph Creeks, Hay Creek Pine-Flatwoods, 558 Hardwoods, Richter Lake, and Lower Yellow River. The cluster is located in Taylor County, Wisconsin.

(E) PARK FALLS CLUSTER.—Certain lands in the Chequamegon National Forest, Medford-Park Falls Ranger District, totaling approximately 23,000 acres, known as ''Park Falls Cluster,'' and including parcels known as Sixteen Lakes, Chippewa Trail, Tucker and Amik Lakes, Lower Rice Creek, Doering Tract, Foulds Creek, Bootjack Conifers, Pond, Mud and Riley Lake Peatlands, Little Willow Drumlin, and Elk River. The cluster is located in Price and Vilas Counties, Wisconsin.

(F) PENOKEE MOUNTAIN CLUSTER.—Certain lands in the Chequamegon National Forest, Great Divide Ranger District, totaling approximately 23,000 acres, known as ''Penokee Mountain Cluster'', and including parcels known as or near St. Peters Dome, Brunsweiler River Gorge, Lake Three, Marengo River and Brunsweiler River Semi-primitive Non-motorized Areas, Hell Hole Creek, and the North County Trail Hardwoods. The cluster is located in Ashland and Bayfield Counties, Wisconsin.

(G) SOUTHEAST GREAT DIVIDE CLUSTER.—Certain lands in the Chequamegon National Forest, Medford Park Falls Ranger District, totaling approximately 25,000 acres, known as the ''Southeast Great Divide Cluster'', and including parcels known as or near Snoose Lake, Cub Lake, Springbrook Hardwoods, upper Moose River, East Fork Chippewa River, upper Torch River, Venison Creek, upper Brunet River, Bear Lake Slough, and No-name Lake. The Cluster is located in Ashland and Sawyer Counties, Wisconsin.

(H) DIAMOND ROOF CLUSTER.—Certain lands in the Nicolet National Forest, Lakewood-Laona Ranger District, totaling approximately 6,000 acres, known as ''Diamond Roof Cluster'', including parcels known as McCaslin Creek, Ada Lake, Section 10 Lake, and Diamond Roof. The cluster is located in Forest, Langlade, and Oconto Counties, Wisconsin.

(I) ARGONNE FOREST CLUSTER.—Certain lands in the Nicolet National Forest, Eagle River-Florence Ranger District, totaling approximately 12,000 acres, known as ''Argonne Forest Cluster'' and including parcels known as Argonne Experimental Forest, Scott Creek, Atkins Lake, and Island Swamp. The cluster is located in Forest County, Wisconsin.

(J) BONITA GRADE.—Certain lands in the Nicolet National Forest, Lakewood-Laona Ranger District, totaling approximately 1,200 acres, known as ''Bonita Grade'', and including parcels near Mountain Lakes, Temple Lake, and Second South Branch, First South Branch, and South Branch Oconto River. The cluster is located in Langlade County, Wisconsin.

(K) FRANKLIN AND BUTTERNUT LAKES CLUSTER.—Certain lands in the Nicolet National Forest, Eagle River-Florence Ranger District, totaling approximately 12,000 acres, known as ''Franklin and Butternut Lakes Cluster'', and including parcels known as Bose Lake Hemlocks, Luna White Deer, Echo Lake, Franklin and Butternut Lakes, Wolf Lake, Upper Ninemile, Meadow, and Bailey Creeks. The cluster is located in Forest and Onieda Counties, Wisconsin.

(L) LAUTERMAN LAKE AND KIEPER CREEK.—Certain lands in the Nicolet National Forest, Eagle River-Florence Ranger District, totaling approximately 2,500 acres, known as ''Lauterman Lake and Kieper Creek'', located in Florence County, Wisconsin.

(26) WYOMING: SAND CREEK AREA.—Certain lands in the Black Hills National Forest, totaling approximately 8,300 acres known as the ''Sand Creek Area'', located in Crook County, Wyoming. This area is situated in the far northwest corner of the Black Hills. Beginning in the northwest corner and proceeding counterclockwise, the boundary for the Sand Creek Area roughly follows Forest Road 863, 866, 866.1B, a line linking 866.1B to 802.1B, 802.1B, 802.1, an unnamed road, Spotted Tail Creek (excluding all private lands), 8219.1, a line connecting 829.1 with 864, 852.1 and a line connecting 852.1 with 863.

(d) COMMITTEE OF SCIENTISTS.—

(1) ESTABLISHMENT.—The Secretaries concerned shall appoint a committee consisting of scientists who—

(A) are not officers or employees of the Federal Government;

(B) are not officers or employees of any entity engaged in whole or in part in the production of wood or wood products; and

(C) have not contracted with or represented any such entities within a 5-year period prior to serving on the committee.

(2) RECOMMENDATIONS FOR ADDITIONAL SPECIAL AREAS.—Within 2 years of the date of the enactment of this Act, the committee shall provide Congress with recommendations for additional Special Areas.

(3) CANDIDATE AREAS.—Candidate areas for recommendation as additional Special Area shall have outstanding biological values that are exemplary on a regional, national, or international level. Biological values include—

(A) the presence of threatened or endangered species of plants or animals;

(B) rare or endangered ecosystems;

(C) key habitats necessary for the recovery or endangered or threatened species;

(D) recovery or restoration areas of rare or underrepresented forest ecosystems;

(E) migration corridors;

(F) areas of outstanding biodiversity;

(G) old growth forests;

(H) commercial fisheries; and

(I) sources of clean water such as key watersheds.

(4) GOVERNING PRINCIPLE.—The committee shall adhere to the principles of conservation biology in identifying Special Areas based on biological values.

SEC. 203. RESTRICTIONS ON MANAGEMENT ACTIVITIES IN ANCIENT FORESTS, ROADLESS AREAS, WATERSHED PROTECTION AREAS, SPECIAL AREAS, AND FEDERAL BOUNDARY AREAS.

(a) RESTRICTION OF MANAGEMENT ACTIVITIES IN ANCIENT FORESTS.—With respect to Ancient Forests on Federal lands, the following prohibitions shall apply:

(1) No roads shall be constructed or reconstructed.

(2) No extractive logging shall be permitted.

(3) No improvements for the purpose of extractive logging shall be permitted.

(b) RESTRICTION OF MANAGEMENT ACTIVITIES IN ROADLESS AREAS.—With respect to Roadless Areas on Federal lands except military installations, the following prohibitions shall apply:

(1) No roads shall be constructed or reconstructed.

(2) No extractive logging shall be permitted.

(3) No improvements for the purpose of extractive logging shall be permitted.

(c) RESTRICTION OF MANAGEMENT ACTIVITIES IN WATERSHED PROTECTION AREAS.—With respect to Watershed Protection Areas on Federal lands except military installations, the following prohibitions shall apply:

(1) No roads shall be constructed or reconstructed.

(2) No extractive logging shall be permitted.

(3) No improvements for the purpose of extractive logging shall be permitted.

(d) RESTRICTION OF MANAGEMENT ACTIVITIES IN SPECIAL AREAS.—With respect to Special Areas on Federal lands, the following prohibitions shall apply:

(1) No roads shall be constructed or reconstructed.

(2) No extractive logging shall be permitted, and

(3) No improvements for the purpose of extractive logging shall be permitted.

(e) RESTRICTION OF MANAGEMENT ACTIVITIES IN FEDERAL BOUNDARY AREAS.—With respect to Federal Boundary Areas on Federal lands, the following prohibitions shall apply:

(1) No roads shall be constructed or reconstructed.

(2) No extractive logging shall be permitted, and

(3) No improvements for the purpose of extractive logging shall be permitted.

(f) MAINTENANCE OF EXISTING ROADS.—The above restrictions on the reconstruction of roads on Federal lands in Ancient Forests, Roadless, Areas, Watershed Protection Areas, Special Areas, and Federal Boundary Areas does not prohibit the maintenance of an improved road, or any road accessing private inholdings, with the exception that any roads which the Secretary concerned determines to have been abandoned before the enactment of this act shall not be maintained or reconstructed.

(g) ENFORCEMENT.—

(1) PURPOSE AND FINDING.—The purpose of this subsection is to foster the widest possible enforcement of this section. Congress finds that all people of the United States are injured by actions on lands to which this section applies.

(2) FEDERAL ENFORCEMENT.—The provisions of this section shall be enforced by the Secretary concerned and the Attorney General of the United States against any person who violates this section.

(3) CITIZEN SUITS.—Any citizen harmed by a violation of this Act may enforce any provision of this section by bringing an action for declaratory judgment, temporary restraining order, injunction, statutory damages, and other remedies against any alleged violator including the United States, in any district court of the United States.

(4) STANDARD OF PROOF.—The standard of proof in all actions brought under this subsection shall be the preponderance of the evidence and the trial shall be de novo.

(5) DAMAGE AWARD.—The court, after determining a violation of this section, shall impose a damage award of not less than $5,000, shall issue one or more injunctions and other equitable relief, and shall award to the plaintiffs reasonable costs of litigation including attorney's fees, witness fees and other necessary expenses. The damage award shall be paid by the violator of violators designated by the court to the U.S. Treasury. The damage award shall be paid from the U.S. Treasury, as provided by Congress under section 1304 of title 31, United States Code, within 40 days after judgment to the person or persons designated to receive it, to be applied in protecting or restoring native biodiversity in or adjoining Federal land. Any award of costs of litigation and any award of attorney fees shall be paid within 40 days after judgment.

(6) WAIVER.—The United States, including its agents and employees waives its sovereign immunity in all respects in all actions under this subsection. No notice is required to enforce this subsection.

By Mr. SPECTER:

S. 978. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit for a portion of the expenses of providing dependent care services to employees, and for other purposes; to the Committee on Finance.

THE AFFORDABLE CHILD CARE ACT

Mr. SPECTER. Mr. President, I have sought recognition to introduce the Affordable Child Care Act, which will ease the financial burden of child care for working families by reducing the cost of day care. I would like to commend Congressman JON FOX from Pennsylvania's 13th District, who has sponsored this legislation in the House. Our bill would provide a tax credit for employers who provide on-site or site-adjacent child care to their employees in order to reduce the child care expenses of the employee.

Many employees have expressed support for on-site day care facilities, which allow parents to spend more time with their children during the day, such as over the lunch hour. On-site child care may not be the best option for all families. Many families rely on relatives, centers operated by churches and other religious organizations, or make other arrangements to provide care for their children while they work. However, it is my view that this bill represents a good start toward reducing the cost of child care for many Americans.

The need for affordable and accessible day care is critical given the increasing numbers of working parents and dual-income families in the United States. According to the Bureau of the Census, in 1975, 31 percent of married mothers with a child younger than age 1 participated in the labor force. By 1995, that figure had risen to 59 percent. Almost 64 percent of married mothers and 53 percent of single mothers with children younger than age six participated in the labor force in 1995.

Yet, as reported by the Pittsburgh Post-Gazette on June 5, 1996, only 13 percent of all major U.S. companies provide some form of on-site day care. Further, it costs at least $1 million to start up such a day care center. About 70 percent of working parents missed at least 1 work day in the past year because of child-related problems, according to Work Family Directions of Boston, a company that advises firms on how to improve work and family programs. A 1991 estimate by the Child Care Action Committee, a national child care advocacy group, found that U.S. businesses lose $3 billion a year because of child care related absences.

The cost of child care for families is also significant. A 1995 report by the Census Bureau showed that in 1993, the average weekly child care cost per arrangement paid by families with employed mothers was $57. Parents using organized child care facilities paid the most per arrangement at around $65 per week. Child care is even more expensive in metropolitan areas than nonmetropolitan areas, averaging $80 per week versus $55 per week. I know that licensed day care centers in some urban areas cost as much as $200 per week, which is quite a burden on families which need the second income. These figures serve to underscore the need for action on the part of the Federal Government to provide the necessary assistance to our Nation's working families.

Accordingly, the legislation I am proposing today would provide a tax credit to businesses that provide licensed, on-site or site-adjacent child care for their employees. Employers would be eligible for a tax credit equal to 50 percent of the net cost of providing dependent care services at a child day care facility for employees. This bill also provides, however, that no credit shall be allocated unless the employer certifies that the amount of such a credit is passed on to the employees using the provider day care in the form of reduced child care costs.

The Affordable Child Care Act complements my recent efforts to assist working families in a number of areas. When Congress debated welfare reform in 1995 and 1996, I worked to ensure that adequate funds were provided for child care, a critical component for welfare mothers who would be required to work to receive new limited welfare benefits. I am pleased that the welfare reform bill that became law provides $20 billion in child care funding over a 6-year period.

Providing health insurance for children is also a top priority of mine, and I have sponsored legislation to establish a discretionary pilot program to cover the 4.2 million children of the working poor, who are not eligible for Medicaid but whose parents cannot afford private insurance. I am also a cosponsor of legislation introduced by my colleagues, Senators CHAFEE and ROCKEFELLER, to expand the Medicaid Program to cover children whose families earn up to 150 percent of the Federal poverty level.

To encourage the adoption of children into healthy and stable families, last April I introduced the Adoption Promotion Act of 1996 (S. 1715) with 13 other Senators to provide tax credits for families that adopt. Subsequently, a broader piece of tax legislation, the Small Business Job Protection Act of

1996, was passed by Congress and signed into law on August 20, 1996. This act included a $5,000 adoption tax credit for qualified adoption expenses and a $6,000 tax credit for special needs adoptions, and was much like our legislation. I recently reintroduced legislation to increase the tax credit for special needs adoptions for $7,500, and permit penalty-free withdrawals from Individual Retirement Accounts up to $2,000 for adoption expenses.

In conclusion, Mr. President, encouraging businesses to provide affordable child care for their employees will help provide peace of mind to those in our Nation struggling to balance career and family. I urge my colleagues to join me in cosponsoring this important legislation, and I urge its swift adoption.

By Mr. SPECTER:

S. 979. A bill to provide a tax credit to families with elderly family members living in the family home; to the Committee on Finance.

TAX CREDIT LEGISLATION

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation that would provide a $2,500 tax credit for individuals or families with elderly family members living in the family home. As we all know, our Nation's population is living longer. With advances in medical treatment, improvements in the Nation's nutrition, and the development of drugs to combat infectious diseases, our Nation's elderly population is expected to more than double by the year 2050. This demographic change presents a unique challenge to America, and it is our duty to work together to ensure that our Nation's elderly and every generation of American families maintain a high quality of life.

Since the Great Depression, our Government has instituted several extremely successful social insurance programs to protect the elderly. The Social Security Program has provided an income security net, and the Medicare Program has insured that senior citizens are afforded access to medical care. Many families, however, are faced with difficult decisions when elderly family members are no longer able to live alone. Many of these seniors are brought into the family home. Others are placed in institutional nursing facilities.

While multigenerational families are not a new phenomenon in America, a new survey released by the National Alliance for Caregiving illustrates how contemporary multigenerational families are faced with extraordinary pressures. Nearly two of three individuals who provide care to elderly family members are employed full or part time, and about half have reported that their caretaking duties have made them late for work, forced them to come home early or to take time off. These caregivers spend an average of 18 hours a week taking care of loved ones, grocery shopping, managing their medications, and helping with transportation and personal care. Many people needing care are chronically ill. More than one in five caregivers, or about 5 million households nationwide, take care of someone with Alzheimer's disease, confusion, dementia or forgetfulness.

Today, millions of American families face a no-win situation when an elderly family member is no longer able to live independently. Taking a loved one into the family home may be much desired instead of having to see a person impoverished by the Medicaid eligibility rules and left a ward of the State, living in a nursing home. Obviously, on the other hand, very few families can afford to pay for private nursing home care themselves. But, bringing an elderly relative into the family home is costly. Our public policy should recognize this dilemma and support those loving families seeking to care for the elderly with their own resources in their own homes.

Currently, there are more than 33.5 million Americans who are 65 years of age and older. In my own State of Pennsylvania, there are 2 million individuals 65 years of age and older. Many of these seniors live independent lives. However, nationwide approximately 3.9 million of our elderly citizens live with relatives other than their spouse and an additional 1.7 million seniors live in nursing homes. My amendment would provide a $2,500 tax credit to individuals or families who care for an elderly family member in the family home. In order to qualify for this tax credit, the elderly family member would have to be at least 65 years old, would have to reside with their family at least half of the taxable year, and must have been eligible under current law to be claimed as a dependent on the family's tax return.

With this amendment, families will be given the vital assistance necessary to provide care to seniors in their homes. It will also provide flexibility to families who would like to provide care to family members in their home rather than place these seniors in institutionalized care facilities, but are otherwise unable to afford this financial commitment. In Congress, we have made many speeches about strengthening the American family and about providing support for our Nations senior citizens. This bill would accomplish both of these important goals. I urge my colleagues to join with me in support of this bill to find real solutions to the real problems faced by the growing numbers of caregivers and senior citizens in America.

By Mr. DURBIN (for himself, Mr. KERRY, Mr. FEINGOLD, Mrs. FEINSTEIN, and Mr. WELLSTONE):

S. 980. A bill to require the Secretary of the Army to close the U.S. Army School of the Americas; to the Committee on Armed Services.

THE SCHOOL OF THE AMERICAS CLOSURE ACT OF 1997

Mr. DURBIN. Mr. President, I rise today to call upon my colleagues to support a bill to close the School of the Americas.

The School of the Americas is an institute that has outlived its usefulness and its purpose. SOA was established over 50 years ago. Its mission is to provide military education and training to military personnel of Central America, South America, and Caribbean countries. The training provided at the school in tactical intelligence, infantry tactics, combat skills, and battle planning was designed in accordance with U.S. strategy of a bygone era: to create a Latin and South American staging area to thwart the Communist threat. But times have changed and there is no longer a Soviet bloc threatening to attack the United States. Unfortunately, SOA has not successfully adapted to the great changes in the world since the 1992 breakup of the Soviet Union. Despite attempts made over the past couple of years to update the curriculum and improve the selection process for students and the quality of the teaching staff, SOA remains an anachronism.

In the post-cold-war era, we need to strengthen civilian institutions in Latin America and help these countries continue to reform their militaries. This region contains some of the most fragile democracies which need our support in encouraging democratically elected governments, the role of civilian institutions and economic stability. Our focus should be on supporting these nascent civilian governments and helping them shift authority away from their militaries.

I also believe the school should be closed because of its past links to numerous military personnel who have committed some of the most heinous crimes of recent memory. SOA graduates include: Panamanian dictator and drug dealer, Manuel Noriega; 19 Salvadoran soldiers linked to the 1989 murder of 6 Jesuit priests, their housekeeper and her daughter; El Salvador death squad leader, Roberto D'Aubuisson; Argentinian dictator, Leopoldo Galtieri; three of the five officers involved in the 1980 rape and murder of four United States churchwomen in El Salvador; and 10 of the 12 officers responsible for the murder of 900 civilians in the El Salvadoran village, El Mozote. These criminals, multiple murderers, and rapists are former students and graduates of the School of the Americas where they received their military and counterinsurgency training.

The U.S. military has readily admitted that these SOA graduates were guilty of these atrocities. These admissions are an embarrassment to the United States and to our reputation as a leader in promoting human rights throughout the world.

In addition, recently the Pentagon released the training manuals used at

SOA from 1982 to 1991. These manuals contained instruction in torture and extortion techniques. These manuals are inconsistent with U.S. policy and democratic ideals. I am concerned that there might be other former students, trained with these manuals and guilty of human rights abuses but who have not as yet come to public attention.

Some have suggested that if SOA is revamped and reorganized that it could still serve a useful purpose. I disagree. SOA cannot be salvaged. Its reputation is too tarnished and its name is too closely linked to the assassins and rapists who were trained there. The United States cannot deny the human rights violations inflicted by the graduates of SOA. But, we still need to find a resolution for these terrible events. I believe that closing SOA is the only way to finally break with this chapter in U.S. history.

Our South American neighbors need to know that human rights and democratic values are held in high esteem in the United States. We are hampered in making this claim as long as the School of the Americas remains open. The continued funding of SOA does not fit into the United States long-term strategy for the Latin American region and undermines our credibility on human rights issues in this hemisphere. I call upon my colleagues to cosponsor this legislation and support the closure of the School of the Americas.

Mr. FEINGOLD. Mr. President, I am pleased to rise as an original cosponsor of the legislation being introduced today by the Senator from Illinois [Mr. DURBIN] to close the U.S. Army School of the Americas [SOA] located at Fort Benning, GA.

SOA was created in 1946 to train Latin American military officers in combat and counterinsurgency skills, with the goal of professionalizing Latin American armies and strengthening democracies. Originally located in Panama, the SOA moved to Fort Benning in 1948. There has been a great deal of controversy surrounding the types of leaders that have graduated from the SOA, leading it to be called the School for Dictators. Some of SOA's graduates include Manuel Noriega, at least 19 Salvadorean officers implicated by El Salvador's Truth Commission in the murder of 6 Jesuit priests, and officers who participated in the coup against former Haitian president Jean-Bertrand Aristide.

In 1991, following an internal investigation, the Pentagon removed certain SOA training manuals from circulation. On September 22, 1996, the Pentagon released the full text of those training manuals and acknowledged that some of those manuals provided instruction in techniques that, in the Pentagon's words, were ''clearly objectionable and possibly illegal.'' The techniques in question included torture, extortion, false arrest, and execution. I and other Senators have written the Department of Defense several times to request additional disclosure of SOA policies, curriculums, training manuals and other materials so that the history of the school can be fully understood.

The horrendous record of the SOA has inspired hundreds of Wisconsin residents to contact my office to express their support for closing this school. Numerous organizations, including Public Citizen, the Washington Office on Latin America and Human Rights Watch also support the elimination of SOA.

As a member of the Senate Committee on Foreign Relations, I am committed to promoting human rights throughout the world. In my view, our Government cannot continue to support the existence of a school that counts so many murderers among its alumni. While I do not doubt that it can be in our national interest to conduct military training with our friends and partners, it is unexcusable that such military training should take place at an institution with the reputation of the School of the Americas. This bill gives Members of the Senate an opportunity to separate the legitimate training exercises conducted by the U.S. military from the sordid acts of many individuals who have been trained at SOA. We must lift the cloud of suspicion that has fallen on these programs by closing SOA once and for all.

Not only are the human costs of this training program unjustifiable, but so are its monetary costs. With a national debt in excess of $5 trillion, every Federal program needs to be carefully scrutinized to ensure that Federal tax dollars are wisely spent. Given the end of the cold war, and in light of documents indicating the SOA training program provided instruction in techniques which violate human rights standards, I feel that the School of Americas is an unwise expenditure, and I support eliminating it as soon as possible.

By Mr. LEVIN (for himself, Mr. THOMPSON, Mr. GLENN, Mr. ABRAHAM, Mr. ROBB, Mr. ROTH, Mr. ROCKEFELLER and Mr. STEVENS):

S. 981. A bill to provide for analysis of major rules; to the Committee on Governmental Affairs.

THE REGULATORY IMPROVEMENT ACT OF 1997

Mr. LEVIN. Mr. President, today Senator THOMPSON and I are joined by Senators GLENN, ABRAHAM, ROBB, ROCKEFELLER, ROTH, and STEVENS in introducing the Regulatory Improvement Act of 1997. The bill would put into law—first, basic requirements for cost-benefit analysis and risk assessment of major rules; second, a process for the review of existing rules where there is a possibility of achieving significantly greater net benefits; and third, executive oversight of the rulemaking process. It builds on the bipartisan Roth-Glenn bill that was unanimously reported out of the Governmental Affairs Committee in 1995.

This bill would require agencies, when issuing rules that have a major impact on the economy or a sector of the economy, to do a cost-benefit analysis to determine whether the benefits of the rule justify its costs and to determine whether the regulatory option chosen by the agency is more cost effective or provides greater net benefits than other regulatory options considered by the agency. If the rule involves a risk to health, safety or the environment, the bill requires the agency to do a risk assessment as part of the analysis of the benefits of the rule.

The bill also requires agencies that issue major rules to establish advisory committees to identify existing rules that the agency should consider for review because they have the potential, if modified, to achieve significantly greater net benefits. It would also codify the review procedure now conducted by the Office of Information and Regulatory Affairs [OIRA] and require public disclosure of OIRA's review process.

The bill is significantly different from S. 343, the Dole-Johnston bill which I strongly opposed and which was rejected by the Senate in the 104th Congress.

It does not create a supermandate that would amend existing laws nor does it contain mandatory decisional criteria that would establish new standards for an agency to meet. It does require agencies to conduct cost-benefit analyses for major rules and explain whether the benefits of the rules justify the costs and whether the rule is cost-effective than the other alternatives considered by the agency. It does not mandate the outcome of the process, only the process itself.

It does not provide for judicial review of the process for, or the contents of, the cost-benefit analysis or risk assessment. The cost-benefit analysis and risk assessment are made part of the rulemaking record for judicial review of whether the final rule is reasonable.

It does not provide for a petition process for challenging existing rules. It provides for advisory committees to identify rules for possible review, gives the agency head the discretion to select rules for review especially taking into account the resources of the agency, and requires the agency to review the rules scheduled for review in 5 years.

Mr. President, many people think that when many of us fought hard against the Dole-Johnston bill that we didn't really want to reform the regulatory process. Well they are wrong. Many of us were disappointed that we were unable to pass a comprehensive regulatory reform bill in the last Congress. We weren't going to support bad reform, but that doesn't mean we didn't want to see good reform. Those of us who believe in the benefits of regulation to protect health and safety have a particular responsibility to make sure that regulations are sensible and cost-effective. When they aren't, the regulatory process—which is so

vital to our health and well being —comes under constant attack . By providing a common sense, moderate and open regulatory process, we are contributing to the well being of that process and immunizing it from the attacks on excesses.

Mr. President, I've fought for regulatory reform since 1979, the year I came to the Senate. I even had as part of my platform back in 1978, the legislative veto—which would give Congress the chance to block excessively costly and burdensome regulations before they take effect. That was my battle cry for years. I worked with former Senator Boren, for instance, trying to get an across-the-board legislative veto bill enacted into law. Last Congress we were finally able to get a version of that adopted.

I was also the author of the Regulatory Negotiation Act which was passed in 1990 and reauthorized in 1995 to encourage agencies to use the collegial process of negotiation in developing certain rules in order to avoid the delays and costs inherent in the otherwise adversarial process.

As for an overall regulatory reform bill, I've supported such legislation since 1980, when the Senate first passed S. 1080, the Laxalt-Leahy bill only to have it die later that year in the House.

At the same time, I took a strong stand against several damaging regulatory reform proposals from the House including an overall moratorium of regulations and against the Dole-Johnston bill in the Senate. I will not support any regulatory reform proposal that I believe would roll back important environmental, public health and safety protections. Nor will I support any regulatory reform proposal that I believe will lead to gridlock in the agencies or the courts. We certainly don't need that.

We do need—better cost-benefit analysis and risk assessment, more flexibility for the regulated industries to reach legislative goals in a variety of ways, more cooperative efforts between government and industry and less ''us versus them'' attitudes.

Based on these common principles, Senator THOMPSON and I have been working for months on this legislative proposal that I hope will yield a more rational and fair regulatory process and better, more flexible, more cost-effective and more enforceable regulations.

Let me highlight some important features of this legislation.

First, we say right from the beginning, in the section on findings, that cost-benefit analysis and risk assessment are useful tools to help agencies issue reasonable regulations. But they are only tools; they are not the sole basis upon which regulations should be developed or issued. They do not, we explicitly state, they do not replace the need for good judgment and the agencies' consideration of social values in deciding when and how to regulate.

We define benefits very broadly—expressly taking into account nonquantifiable benefits. There is nothing in this bill that suggests that the assessment of benefits by an agency should be only quantifiable. On the contrary, this bill explicitly recognizes that many important benefits may be nonquantifiable, and that agencies have the right and authority to fully consider such benefits when doing the cost-benefit analysis and when determining whether the benefits justify the costs. We emphatically do not intend for the benefits part of the equation in the cost-benefit analysis to be limited to merely those benefits that are quantifiable.

We direct the agencies to consider regulatory options that provide flexibility, where possible, to the regulated parties. I have been a longtime proponent of performance standards in regulations and not the so-called command and control approach. This bill urges the agencies to include in its identification of possible regulatory approaches that permit flexibility in achieving the required goal, either through performance standards or market type mechanisms.

The definition of major rule, to which the provisions of this bill apply, is limited to those with a $100 million impact on the economy and those otherwise designated by the Administrator of the Office of Information and Regulatory Affairs [OIRA].

The bill requires an agency issuing a major rule to evaluate the benefits and costs of a ''reasonable number of reasonable alternatives reflecting the range of regulatory options that would achieve the objective of the statute as addressed by the rulemaking.'' I am quoting these words, because they are significant. The bill doesn't require an agency to look at all the possible alternatives, just a reasonable number; but it does require the agency to pick a selection of options that are available to it within the range of the rulemaking objective.

This cost-benefit analysis, of which any risk assessment would be a part, is intended to be transparent to the public; that is, those of us outside the agency—Congress, the regulated community, the beneficiaries of the regulation, the general public—should be able to see and understand the thinking the agency used to select the regulatory option it did, as well as the underlying scientific and/or economic data. Agencies should not hide the important information that forms the basis of their regulatory actions.

Another important provision of this bill is the one that requires the agency to make a reasonable determination whether the benefits of the rule justify the costs and whether the regulatory option selected by the agency is substantially likely to achieve the objective of the rulemaking in a more cost effective manner or with greater net benefits than the other regulatory options considered by the agency. This is not in any way a decisional criteria that the agency must meet. This only requires the agency to make its assessment. And, if, as the agency is free to do, it chooses a regulatory option where the benefits do not justify the costs or that is not more cost effective or does not provide greater net benefits than the other options, the agency is required to explain why it did what it did and list the factors that caused it to so. Those factors could be a statute, a policy judgment, uncertainties in the data and the like. There is no added judicial scrutiny of a rule provided for or intended by this section. The final rule must still stand or fall based on whether the court finds that the rule is arbitrary or capricious in light of the whole rulemaking record. That is the current standard of judicial review.

The bill says that if an agency cannot make the determinations required by the bill, it has to say why it can't. Use of the word cannot does not mean that an agency rule can be overturned by a court for its failure to pick an option that would permit the agency to make the determinations required by the bill. The agency is free to use its discretion to regulate under the substantive statute, and there is no implication that such rule must meet the standards described in the determinations subsection. It does mean, though, that the agency is required to make such determinations and let the public know why it picked the regulatory option that it did, and if it can't say, or determine, that the regulatory option it chose is the most cost effective or provides greatest net benefits, it must say why it chose it. This legislation requires only that the agency be up front with the public as to just how cost beneficial and cost effective its regulatory proposal is.

The risk assessment requirement in this bill, unlike previous bills, is not unduly proscriptive. It establishes basic elements for performing risk assessments, many of which, again, will provide transparency for an agency's development of a rule, and it requires guidelines for such assessments to be issued by OIRA in consultation with the Office of Science and Technology Policy.

Peer review, Mr. President, is required by this bill for both cost-benefit analyses and risk assessments, but only once per rule. Peer review is not required at both the proposed and final rule stages. There is great concern in the public interest community, that there will not be sufficient personnel available with appropriate expertise and independence to serve on each of these peer review bodies. I am hoping to pursue that issue at greater length during our committee hearings.

There is a similar concern by the public interest sector as to the availability of a balanced cross-section of individuals to serve on the advisory committees required for the review of rules. Service on such bodies obviously takes time and expertise and both of

those cost money. I hope we can also address the concerns about the possibility of inadequate levels of participation by groups and interests which have fiscal constraints that could preclude their full participation.

Mr. President, the review of rules provision in this bill is also a reasonable approach. Unlike past proposals, it does not provide for an automatic sunset of a rule that is not reviewed pursuant to the schedule. Rather it provides for the agency to determine during the review period of rules it chooses to review whether it is going to continue, modify, or repeal the rule under review. If it fails to make that determination and take the appropriate action, the agency can be sued under the existing provision of the Administrative Procedure Act to force agency action unlawfully withheld.

Rules would be scheduled for review under the provisions of this bill, only at the discretion of the agency head. However, the public would know the list of rules recommended for review by the advisory committee. The advisory committee would recommend those rules for review that, if modified, could result in substantially greater net benefits to society. That is the standard the committees are supposed to apply. The agency must review the recommendations of the advisory committee and develop a schedule for review of rules taking into account the resources available to the agency to conduct such reviews.

Judicial review has been of great concern to those of us who want real regulatory reform without bottling up important regulations in the courts. There is no judicial review permitted of the cost-benefit analysis or risk assessment required by this bill outside of judicial review of the final rule. The analysis and assessment are included in the rulemaking record, but there is no judicial review of the content of those items or the procedural steps followed or not followed by the agency in the development of the analysis or assessment. Only the total failure to actually do the cost-benefit analysis or risk assessment would allow the court to remand the rule to the agency.

Finally, Mr. President, the bill puts into law the requirement that the President establish a process for reviewing rules and coordinating Federal agency regulatory actions. Despite over 15 years of Executive orders that impose such a requirement, Congress has yet to put such a responsibility of the President into law. This bill would do that. And with that responsibility goes the obligation of the President, acting through OIRA, to make public the process and results of its review of agency rules. This is an important element of accountability, and such disclosure should not depend upon the whim of the President but rather on the requirements imposed by permanent law.

So those are some highlights. Senator THOMPSON has committed to hearings on the bill. Everybody will be given an opportunity to comment and identify potential problems and possible improvements.

I believe this bill will improve the regulatory process, will build confidence in the regulatory programs that are so important to this society's well-being, and will result in a better—and I believe—a less contentious regulatory process.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 981

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 ''Regulatory Improvement Act of 1997''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Current regulatory programs can be improved by being more firmly rooted in sound economic and scientific analysis.

(2) Cost-benefit analysis and risk assessment are useful tools to better inform agencies in developing regulations, although they do not replace the need for good judgment and consideration of values.

(3) Cost and risk need to be considered in evaluating regulatory proposals which address health, safety, or the environment. Other factors such as social values, distributional effects, and equity, must also be considered.

(4) Cost-benefit analysis and risk assessment should be presented with a clear statement of the analytical assumptions and uncertainties including an explanation of what is known and not known and what the implications of alternative assumptions might be.

(5) The public has a right to know about the costs and benefits of regulations, the risks addressed, the amount of risk reduced, and the quality of scientific and economic analysis used to support decisions. Such knowledge will promote the quality, integrity and responsiveness of agency actions.

(6) The Administrator of the Office of Information and Regulatory Affairs should oversee regulatory activities to ensure consistent and valid use of cost-benefit analysis and risk assessment among all agencies.

(7) The Federal Government should develop a better understanding of the strengths, weaknesses, and uncertainties of cost-benefit analysis and risk assessment and conduct the research needed to improve these analytical tools.

SEC. 3. REGULATORY ANALYSIS.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER II—REGULATORY ANALYSIS

''§ 621. Definitions

''For purposes of this subchapter the definitions under section 551 shall apply and—

''(1) the term 'benefit' means the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable, including social, health, safety, environmental, economic, and distributional effects, that are expected to result directly or indirectly from implementation of, or compliance with, a rule;

''(2) the term 'cost' means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable, including social, health, safety, environmental, economic, and distributional effects that are expected to result directly or indirectly from implementation of, or compliance with, a rule;

''(3) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration uncertainties, the significance and complexity of the decision, and the need to adequately inform the public;

''(4) the term 'Director' means the Director of the Office of Management and Budget, acting through the Administrator of the Office of Information and Regulatory Affairs;

''(5) the term 'flexible regulatory options' means regulatory options that permit flexibility to regulated persons in achieving the objective of the statute as addressed by the rule making, including regulatory options that use market-based mechanisms, outcome oriented performance-based standards, or other options that promote flexibility;

(6) the term 'major rule' means a rule or a group of closely related rules that—

''(A) the agency proposing the rule or the Director reasonably determines is likely to have an annual effect on the economy of $100,000,000 or more in reasonably quantifiable costs; or

''(B) is otherwise designated a major rule by the Director on the ground that the rule is likely to adversely affect, in a material way, the economy, a sector of the economy, including small business, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments, or communities;

''(7) the term 'reasonable alternative' means a reasonable regulatory option that would achieve the objective of the statute as addressed by the rule making and that the agency has authority to adopt under the statute granting rule making authority, including flexible regulatory options;

''(8) the term 'risk assessment' means the systematic process of organizing hazard and exposure assessments to estimate the potential for specific harm to exposed individuals, populations, or natural resources;

''(9) the term 'risk characterization' means the presentation of risk assessment results including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions in the assessment;

''(10) the term 'rule' has the same meaning as in section 551(4), and shall not include—

''(A) a rule exempt from notice and public comment procedure under section 553;

''(B) a rule that involves the internal revenue laws of the United States, or the assessment and collection of taxes, duties, or other revenue or receipts;

''(C) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

''(D) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System or by the Federal Open Market Committee;

''(E) a rule relating to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)); credit unions; the Federal Home Loan

Banks; government-sponsored housing enterprises; a Farm Credit System Institution; foreign banks, and their branches, agencies, commercial lending companies or representative offices that operate in the United States and any affiliate of such foreign banks (as those terms are defined in the International Banking Act of 1978 (12 U.S.C. 3101)); or a rule relating to the payments system or the protection of deposit insurance funds or Farm Credit Insurance Fund;

''(F) a rule or order relating to the financial responsibility, recordkeeping, or reporting of brokers and dealers (including Government securities brokers and dealers) or futures commission merchants, the safeguarding of investor securities and funds or commodity future or options customer securities and funds, the clearance and settlement of securities, futures, or options transactions, or the suspension of trading under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or emergency action taken under the Commodity Exchange Act (7 U.S.C. 1 et seq.), or a rule relating to the protection of the Securities Investor Protection Corporation, that is promulgated under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), or a rule relating to the custody of Government securities by depository institutions under section 3121 or 9110 of title 31;

''(G) a rule issued by the Federal Election Commission or a rule issued by the Federal Communications Commission under sections 312(a)(7) and 315 of the Communications Act of 1934 (47 U.S.C. 312(a)(7) and 315);

''(H) a rule required to be promulgated at least annually pursuant to statute; or

''(I) a rule or agency action relating to the public debt;

''(11) the term 'screening analysis' means an analysis using simple assumptions to arrive at an estimate of upper and lower bounds of risk as appropriate; and

''(12) the term 'substitution risk' means an increased risk to health, safety, or the environment reasonably likely to result from a regulatory option.

''§ 622. Applicability

''Except as provided in section 623(e), this subchapter shall apply to all proposed and final major rules.

''§ 623. Regulatory analysis

''(a)(1) Before publishing a notice of a proposed rule making for any rule, each agency shall determine whether the rule is or is not a major rule covered by this subchapter.

''(2) The Director may designate any rule to be a major rule under section 621(6)(B), if the Director—

''(A) makes such designation no later than 30 days after the close of the comment period for the rule; and

''(B) publishes such determination in the Federal Register together with a succinct statement of the basis for the determination within 30 days after such determination.

''(b)(1)(A) When an agency publishes a notice of proposed rule making for a major rule, the agency shall prepare and place in the rule making file an initial regulatory analysis, and shall include a summary of such analysis consistent with subsection (d) in the notice of proposed rule making.

''(B)(i) When the Director has published a determination that a rule is a major rule after the publication of the notice of proposed rule making for the rule, the agency shall promptly prepare and place in the rule making file an initial regulatory analysis for the rule and shall publish in the Federal Register a summary of such analysis consistent with subsection (d).

''(ii) Following the issuance of an initial regulatory analysis under clause (i), the agency shall give interested persons an opportunity to comment under section 553 in the same manner as if the initial regulatory analysis had been issued with the notice of proposed rule making.

''(2) Each initial regulatory analysis shall contain—

''(A) a cost-benefit analysis of the proposed rule that shall contain—

''(i) an analysis of the benefits of the proposed rule, including any benefits that cannot be quantified, and an explanation of how the agency anticipates that such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

''(ii) an analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates that such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs; and

''(iii) an evaluation of the relationship of the benefits of the proposed rule to its costs, including the determinations required under subsection (c)(3), taking into account the results of any risk assessment;

''(iv) an evaluation of the benefits and costs of a reasonable number of reasonable alternatives reflecting the range of regulatory options that would achieve the objective of the statute as addressed by the rule making, including, where feasible, alternatives that—

''(I) require no government action;

''(II) accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; or

''(III) employ flexible regulatory options;

''(v) a description of the scientific or economic evaluations or information upon which the agency substantially relied in the cost-benefit analysis and risk assessment required under this subchapter, and an explanation of how the agency reached the determinations under subsection (c)(3); and

''(B) if required, the risk assessment in accordance with section 624.

''(c)(1) When the agency publishes a final major rule, the agency shall also prepare and place in the rule making file a final regulatory analysis, and shall prepare a summary of the analysis consistent with subsection (d).

''(2) Each final regulatory analysis shall address each of the requirements for the initial regulatory analysis under subsection (b)(2), revised to reflect—

''(A) any material changes made to the proposed rule by the agency after publication of the notice of proposed rule making;

''(B) any material changes made to the cost-benefit analysis or risk assessment; and

''(C) agency consideration of significant comments received regarding the proposed rule and the initial regulatory analysis, including regulatory review communications under subchapter IV.

''(3)(A) The agency shall include in the statement of basis and purpose for the rule a reasonable determination, based upon the rule making record considered as a whole—

''(i) whether the rule is likely to provide benefits that justify the costs of the rule; and

''(ii) whether the rule is likely to substantially achieve the rule making objective in a more cost-effective manner, or with greater net benefits, than the other reasonable alternatives considered by the agency.

''(B) If the agency head cannot reasonably determine that the final rule is likely to provide benefits that justify the costs of the rule and substantially achieve the rule making objective in a more cost-effective manner or with greater net benefits than the other reasonable alternatives considered by the agency, the agency head shall—

''(i) explain why such determinations cannot be made;

''(ii) identify any statutory provision or other factor that prevents such determinations; and

''(iii) describe a reasonable alternative considered by the agency, if feasible, that would allow the agency to determine that the benefits justify the costs and that the rule making objective would be achieved in a more cost-effective manner or with greater net benefits than the other reasonable alternatives considered by the agency.

''(d) Each agency shall include an executive summary of the regulatory analysis, including any risk assessment, in the regulatory analysis and in the statement of basis and purpose for the rule. Such executive summary shall include a succinct presentation of—

''(1) the benefits and costs expected to result from the rule and any determinations required under subsection (c)(3);

''(2) if applicable, the risk addressed by the rule, including the most plausible estimate of the risk and the results of any risk assessment;

''(3) the benefits and costs of reasonable alternatives considered by the agency; and

''(4) the key assumptions and scientific or economic information upon which the agency relied.

''(e)(1) A major rule may be adopted without prior compliance with this subchapter if—

''(A) the agency for good cause finds that conducting the regulatory analysis under this subchapter is contrary to the public interest due to an emergency, or an imminent threat to health or safety that is likely to result in significant harm to the public or the environment; and

''(B) the agency publishes in the Federal Register, together with such finding, a succinct statement of the basis for the finding.

''(2) If a major rule is adopted under paragraph (1), the agency shall comply with this subchapter as promptly as possible unless compliance would be unreasonable because the rule is, or soon will be, no longer in effect.

''§ 624. Principles for risk assessments

''(a)(1) Subject to paragraph (2), each agency shall design and conduct risk assessments in accordance with this subchapter for each proposed and final major rule the primary purpose of which is to address health, safety, or environmental risk, or which results in a significant substitution risk, in a manner that promotes rational and informed risk management decisions and informed public input into and understanding of the process of making agency decisions.

''(2) If a risk assessment under this subchapter is otherwise required by this section, but the agency determines that—

''(A) a final rule subject to this subchapter is substantially similar to the proposed rule with respect to the risk being addressed;

''(B) a risk assessment for the proposed rule has been carried out in a manner consistent with this subchapter; and

''(C) a new risk assessment for the final rule is not required in order to respond to comments received during the period for comment on the proposed rule,

the agency may publish such determination along with the final rule in lieu of preparing a new risk assessment for the final rule.

''(b) Each agency shall consider in each risk assessment reliable and reasonably available scientific information and shall describe the basis for selecting such scientific information.

''(c)(1) Each agency may use reasonable assumptions to the extent that relevant and reliable scientific information, including

site-specific or substance-specific information, is not reasonably available.

''(2) When a risk assessment involves a choice of assumptions, the agency shall—

''(A) identify the assumption and its scientific or policy basis, including the extent to which the assumption has been validated by, or conflicts with, empirical data;

''(B) explain the basis for any choices among assumptions and, where applicable, the basis for combining multiple assumptions; and

''(C) describe reasonable alternative assumptions that were considered but not selected by the agency for use in the risk assessment, how such alternative assumptions would have changed the conclusions of the risk assessment, and the rationale for not using such alternatives.

''(d) Each agency shall provide appropriate opportunity for public comment and participation during the development of a risk assessment.

''(e) Each risk assessment supporting a major rule under this subchapter shall include, as appropriate, each of the following:

''(1) A description of the hazard of concern.

''(2) A description of the populations or natural resources that are the subject of the risk assessment.

''(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population at risk and the likelihood of such exposure scenarios.

''(4) A description of the nature and severity of the harm that could reasonably occur as a result of exposure to the hazard.

''(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

''(f) To the extent scientifically appropriate, each agency shall—

''(1) express the overall estimate of risk as a reasonable range or probability distribution that reflects variabilities, uncertainties, and lack of data in the analysis;

''(2) provide the range and distribution of risks and the corresponding exposure scenarios, identifying the range and distribution and likelihood of risk to the general population and, as appropriate, to more highly exposed or sensitive subpopulations, including the most plausible estimates of the risks; and

''(3) where quantitative estimates are not available, describe the qualitative factors influencing the range, distribution, and likelihood of possible risks.

''(g) When scientific information that permits relevant comparisons of risk is reasonably available, each agency shall use the information to place the nature and magnitude of a risk to health, safety, or the environment being analyzed in relationship to other reasonably comparable risks familiar to and routinely encountered by the general public. Such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks.

''(h) When scientifically appropriate information on significant substitution risks to health, safety, or the environment is reasonably available to the agency, the agency shall describe such risks in the risk assessment.

''§ 625. Peer review

''(a) Each agency shall provide for peer review in accordance with this section of any cost benefit analysis and risk assessment required by this subchapter that forms the basis of any major rule covered by this subchapter.

''(b)(1) Peer review required under subsection (a) shall—

''(A) provide for the creation or utilization of peer review panels, expert bodies, or other formal or informal devices that are broadly representative and balanced and that consist of panel members or participants with expertise relevant to the sciences involved in the regulatory decisions and who are independent of the agency program;

''(B) exclude any person as a panel member or participant if such person has a financial interest in the outcome, unless such person fully discloses such interest to the agency and the public;

''(C) provide for the timely completion of the peer review including meeting agency deadlines;

''(D) contain a balanced presentation of all considerations, including minority reports and an agency response to all significant peer review comments; and

''(E) provide adequate protections for confidential business information and trade secrets, including requiring panel members or participants to enter into confidentiality agreements.

''(2) All peer review written comments or conclusions and the agency's written responses to significant peer review comments shall be made available to the public and shall be made part of the rule making record for purposes of judicial review of any final agency action.

''(3) If the head of an agency, with the concurrence of the Director, publishes a determination that a cost-benefit analysis or risk assessment, or any component thereof, has been previously subjected to adequate peer review, no further peer review shall be required under this section for such analysis, assessment, or component.

''§ 626. Deadlines for rule making

''(a) All deadlines in statutes or imposed by a court of the United States, that require an agency to propose or promulgate any major rule during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

''(1) the date on which the requirements of this subchapter are satisfied; or

''(2) the date occurring 6 months after the date of the applicable deadline.

''(b) In any case in which the failure to promulgate a major rule by a deadline occurring during the 2-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

''(1) the date on which the requirements of this subchapter are satisfied; or

''(2) the date occurring 6 months after the date of the applicable deadline.

''§ 627. Judicial review

''(a) Compliance or noncompliance by an agency with the provisions of this subchapter shall only be subject to judicial review in accordance with this section.

''(b) Any determination of an agency whether a rule is or is not a major rule under section 621(6)(A) shall be set aside by a reviewing court only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time the agency made the determination.

''(c) Any determination by the Director that a rule is a major rule under section 621(6), or any failure to make such determination, shall not be subject to judicial review in any manner.

''(d) The cost-benefit analysis and any risk assessment required under this subchapter shall not be subject to judicial review separate from review of the final rule to which they apply. The cost-benefit analysis, cost-benefit determination under section 623(c)(3), and any risk assessment shall be part of the whole rule making record for purposes of judicial review of the rule and shall be considered by a court in determining whether the final rule is arbitrary or capricious unless the agency can demonstrate that the analysis or assessment would not be material to the outcome of the rule.

''(e) If an agency fails to perform the cost-benefit analysis, cost-benefit determination, or risk assessment, a court shall remand or invalidate the rule.

''§ 628. Guidelines, interagency coordination, and research

''(a)(1) No later than 9 months after the date of enactment of this section, the Director, in consultation with the Director of the Office of Science and Technology Policy and the relevant agency heads, shall develop guidelines for cost-benefit analyses and risk assessments required by this subchapter or with significant implications for public policy. To the extent feasible such guidelines shall apply the principles of sections 623 and 624. The Director shall oversee and periodically revise such guidelines as appropriate.

''(2) As soon as practicable and no later than 18 months after the date of enactment of this section, each relevant agency shall adopt detailed guidelines for risk assessments required by this subchapter or with significant implications for public policy. Such guidelines shall be consistent with the guidance issued under paragraph (1). Each agency shall periodically revise such agency guidelines as appropriate.

''(3) The guidelines under this subsection shall be developed following notice and public comment. The development and issuance of the guidelines shall not be subject to judicial review, except in accordance with section 706(1) of this title.

''(b) To promote the use of cost-benefit analysis and assessment in a consistent manner and to identify agency research and training needs, the Director, in consultation with the Director of the Office of Science and Technology Policy, shall—

''(1) oversee periodic evaluations of Federal agency cost-benefit analysis and risk assessment;

''(2) provide advice and recommendations to the President and Congress to improve agency use of cost-benefit analysis and risk assessment;

''(3) establish appropriate interagency mechanisms to improve the consistency and quality of cost-benefit analysis and risk assessment among Federal agencies; and

''(4) establish appropriate mechanisms between Federal and State agencies to improve cooperation in the development and application of cost-benefit analysis and risk assessment.

''(c)(1) The head of each agency, in consultation with the Director and the Director of the Office of Science and Technology Policy, shall regularly evaluate and develop a strategy to meet agency needs for research and training in cost-benefit analysis and risk assessment, including research on modelling, the development of generic data, use of assumptions and the identification and quantification of uncertainty and variability.

''(2)(A) No later than 6 months from the date of enactment of this section, the Director, in consultation with the Director of the Office of Science and Technology Policy, shall enter into appropriate arrangements with an accredited scientific institution to conduct research to—

''(i) identify and evaluate a common basis to assist comparative risk analysis and risk communication related to both carcinogens and noncarcinogens; and

''(ii) appropriately incorporate risk assessments into related cost-benefit analyses.

''(B) The results of the research conducted under this paragraph shall be submitted to the Director and Congress no later than 18

months after the date of enactment of this section.

"§ 629. Comparative risk analysis study

''(a) No later than 180 days after the effective date of this section, the Director, in consultation with the Director of the Office of Science and Technology Policy, shall enter into a contract with an accredited scientific institution to conduct a study that provides—

''(1) a systematic comparison of the extent and severity of significant risks to human health, safety, or the environment (hereafter referred to as a comparative risk analysis);

''(2) a study of methodologies for using comparative risk analysis to compare dissimilar risks to human health, safety, or the environment; and

''(3) technical guidance and recommendations on the use of comparative risk analysis to assist in allocating resources within and across agencies to set priorities for the reduction of risks to human health, safety, or the environment.

''(b) The Director shall ensure that the study required under subsection (a) is—

''(1) conducted through an open process providing peer review consistent with section 625 and opportunities for public comment and participation; and

''(2) completed and submitted to Congress and the President no later than 3 years after the effective date of this section.

''(c) No later than 5 years after the effective date of this section, and periodically thereafter, the President shall submit a report to Congress recommending legislative changes to assist in setting priorities to more effectively and efficiently reduce risks to human health, safety, or the environment.

''SUBCHAPTER III—REVIEW OF RULES

"§ 631. Definitions

''For purposes of this subchapter the definitions under sections 551 and 621 shall apply.

"§ 632. Advisory committee on regulations

''(a)(1)(A) No later than 90 days after the date of enactment of this section and every 5 years thereafter, the head of each agency described under subparagraph (B) shall establish an advisory committee for the review of rules.

''(B) An agency referred to under subparagraph (A) is any agency that has promulgated a major rule during the 10-year period preceding the date of the establishment of an advisory committee under subparagraph (A).

''(2) The head of an agency described under paragraph (1) may establish panels under its advisory committee.

''(b)(1) Each such agency head shall appoint a reasonable number of members to serve on the agency's advisory committee and shall designate a chairman from the members of the committee. Membership on the committee shall represent a balanced cross-section of public and private interests affected by the regulations of the agency, including small businesses, small governments, and public interest groups. No employee of the agency establishing the committee shall serve as a member of such agency's committee under this section.

''(2) Each member shall be appointed for the life of the advisory committee. The advisory committee shall terminate 1 year after the date on which the committee is established.

''(3) A vacancy on a committee shall be filled in the same manner as the original appointment.

''(4) Each committee shall solicit public comments and may solicit public participation through appropriate means including hearings, written comments, public meetings, and electronic mail.

''(5) Members of each committee shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703.

''(6) Each committee shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

"§ 633. Agency regulatory review

''(a) Each advisory committee appointed under section 632 shall develop a list of rules promulgated by the agency that the committee serves, which the committee determines should be reviewed by the agency and can reasonably be reviewed by the agency within a 5-year period. In selecting rules for review, each committee shall consider the extent to which—

''(1) a rule could be revised to substantially increase net benefits, including through flexible regulatory options;

''(2) the rule is important relative to other rules being considered for review; and

''(3) the agency has discretion under the statute authorizing the rule to modify or repeal the rule.

''(b) In developing the list required under subsection (a), each advisory committee shall obtain comments and suggestions from the public.

''(c) No later than 1 year after an advisory committee is established, such committee shall deliver to the agency the committee's recommended list of rules to be reviewed in order of priority. The agency shall immediately publish the list in the Federal Register and forward a copy of the list to the appropriate committees of jurisdiction in the House of Representatives and the Senate.

''(d)(1) No later than 60 days after receiving and reviewing the list of rules from its committee, the agency shall publish in the Federal Register a preliminary schedule for review of rules based on such list.

''(2) The agency shall provide in the Federal Register at the time the preliminary schedule is published an explanation of each modification to the list provided by the advisory committee and shall invite public comment on the preliminary schedule for a period of no less than 60 days.

''(e) The preliminary schedule under this section shall propose deadlines for review of each rule listed thereon, and such deadlines shall occur no later than 5 years from the date of publication of the final schedule.

''(f)(1) No later than 60 days after the close of the comment period, the agency shall publish a final schedule of rules to be reviewed by the agency under this section.

''(2) The schedule shall establish a deadline for completion of the review of each rule listed on the schedule. Each deadline shall occur no later than 5 years from the date of publication of the final schedule.

''(g) In preparing the preliminary and final schedule, the agency shall give deference to the recommendations of its advisory committee but may modify the list of rules to be reviewed, taking into account the factors contained in subsection (a) and the resource constraints of the agency.

''(h)(1) For each rule on the schedule under subsection (e), the agency shall—

''(A) no later than 2 years before the deadline in such schedule, publish in the Federal Register a notice that solicits public comment regarding whether the rule should be continued, amended, or repealed;

''(B) no later than 1 year before the deadline in such schedule, publish in the Federal Register a notice that—

''(i) addresses public comments generated by the notice in subparagraph (A);

''(ii) contains a preliminary analysis by the agency with respect to subsection (a) (1), (2), and (3);

''(iii) contains a preliminary determination whether the rule should be continued, amended, or repealed; and

''(iv) solicits public comment on the preliminary determination for the rule; and

''(C) no later than 60 days before the deadline in such schedule, publish in the Federal Register a final notice on the rule that—

''(i) addresses public comments generated by the notice in subsection (c);

''(ii) contains a determination to continue, amend, or repeal the rule and an explanation of such determination with respect to subsection (a) (1), (2), and (3); and

''(iii) if the agency determines to amend or repeal the rule, contains, if required, a notice of proposed rule making under section 553.

''(2) If the final determination of the agency is to continue the rule, such determination shall constitute final agency action 60 days after the publication in the Federal Register of the notice in paragraph (1)(C).

''(i) If an agency makes a determination to amend or repeal a rule under subsection (h)(1)(C), the agency shall complete final agency action with regard to such rule no later than 2 years after the deadline established for such rule under subsection (f)(2).

''(j) Nothing in this section shall limit the discretion of an agency to decide, after having proposed to modify or repeal a rule, not to promulgate such modification or repeal. Such decision shall constitute final agency action for the purposes of judicial review.

''(k) Agency failure to take the actions required by this section shall be subject to judicial review only under section 706(1). There shall be no judicial review of the preliminary or final schedule.

''(l) A court may remand a determination under subsection (h)(2) only upon a clear and convincing showing that the agency could have adopted a reasonable alternative that would substantially increase net benefits, including through flexible regulatory options, while meeting the objectives of the statute as addressed by the rule making.

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"§ 641. Definitions

''For purposes of this subchapter—

''(1) the definitions under sections 551 and 621 shall apply; and

''(2) the term 'regulatory action' means any one of the following:

''(A) An agenda or schedule for rule makings.

''(B) Advance notice of proposed rule making.

''(C) Notice of proposed rule making.

''(D) Final rule making, including interim final rule making.

"§ 642. Presidential regulatory review

''(a) The President shall establish a process for the review and coordination of Federal agency regulatory actions. Such process shall be the responsibility of the Director.

''(b) For the purpose of carrying out the review established under subsection (a), the Director shall—

''(1) develop and oversee uniform regulatory policies and procedures, including those by which each agency shall comply with the requirements of this chapter;

''(2) develop policies and procedures for the review of regulatory actions by the Director; and

''(3) develop and oversee an annual governmentwide regulatory planning process that shall include review of planned agency major rules and other significant regulatory actions and publication of—

''(A) a summary of and schedule for promulgation of planned agency major rules;

''(B) agency specific schedules for review of existing rules under subchapter III;

''(C) a summary of regulatory review actions undertaken in the prior year;

''(D) a list of major rules promulgated in the prior year for which an agency could not make the determinations that the benefits of a rule justify the costs under section 623(c)(3);

''(E) identification of significant agency noncompliance with this chapter in the prior year; and

''(F) recommendations for improving compliance with this chapter and increasing the efficiency and effectiveness of the regulatory process.

''(c) The review established under subsection (a) shall be conducted as expeditiously as practicable and the Director's review of any regulatory action shall be limited to no more than 90 days, unless extended for an additional 30 days at the written request of the rule making agency or the Director.

''§ 643. Public disclosure of information

''(a) The Director, in carrying out the provisions of section 642, shall establish procedures to provide public and agency access to information concerning regulatory review actions, including—

''(1) disclosure to the public on an ongoing basis of information regarding the status of regulatory actions undergoing review;

''(2) disclosure to the public, no later than publication of a regulatory action, of—

''(A) all written communications relating to the substance of a regulatory action including drafts of all proposals and associated analyses, between the Director or employees of the Director and the regulatory agency;

''(B) all written communications relating to the substance of a regulatory action between the Director or employees of the Director and any person not employed by the executive branch of the Federal Government;

''(C) a list identifying the dates, names of individuals involved, and subject matter discussed in substantive meetings and telephone conversations relating to the substance of a regulatory action between the Director or employees of the Director and any person not employed by the executive branch of the Federal Government; and

''(D) a written explanation of any review action and the date of such action; and

''(3) disclosure to the regulatory agency, on a timely basis, of—

''(A) all written communications relating to the substance of a regulatory action between the Director or employees of the Director and any person who is not employed by the executive branch of the Federal Government;

''(B) a list identifying the dates, names of individuals involved, and subject matter discussed in substantive meetings and telephone conversations, and an invitation to participate in meetings, relating to the substance of a regulatory action between the Director or employees of the Director and any person not employed by the executive branch of the Federal Government; and

''(C) a written explanation of any review action taken concerning an agency regulatory action.

''(b) Prior to the publication of any proposed or final rule, the agency shall include in the rule making record—

''(1) a document identifying in a complete, clear, and simple manner, the substantive changes between the draft submitted to the Director for review and the rule subsequently announced;

''(2) a document identifying those changes in the rule that were made at the suggestion or recommendation of the Director; and

''(3) all written communications exchanged between the Director and the agency during the review of the rule, including drafts of all proposals and associated analyses.

''§ 644. Judicial review

''The exercise of the authority granted under this subchapter by the Director or the President shall not be subject to judicial review in any manner.''.

(b) PRESIDENTIAL AUTHORITY.—Nothing in this Act shall limit the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Part I of title 5, United States Code, is amended by striking the chapter heading and table of sections for chapter 6 and inserting the following:

''CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

''SUBCHAPTER I—ANALYSIS OF REGULATORY FLEXIBILITY

''SUBCHAPTER II—REGULATORY ANALYSIS

''SUBCHAPTER III—REVIEW OF RULES

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

(2) Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

''SUBCHAPTER I—ANALYSIS OF REGULATORY FLEXIBILITY''.

SEC. 4. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect 180 days after the date of enactment of this Act, but shall not apply to any agency rule for which a notice of proposed rulemaking is published on or before August 1, 1997.

SUMMARY OF THE REGULATORY IMPROVEMENT ACT OF 1997

1. Regulatory Analysis (§623). When issuing major rules (costing over $100 million or deemed by OMB to have a significant impact on the economy), Federal agencies must conduct a regulatory analysis, including a cost-benefit analysis and, if relevant, a risk assessment.

a. Cost-benefit analysis. The cost-benefit analysis shall consider: The expected benefits of the rule (quantifiable and nonquantifiable); the expected costs of the rule (quantifiable and nonquantifiable); reasonable alternatives, including flexible regulatory options—such as market-based mechanisms or outcome-oriented performance-based standards;

b. Cost-benefit determination. The agency shall include in the statement of basis and purpose for the rule a reasonable determination: (1) whether the rule is likely to provide benefits that justify the costs of the rule; and (2) whether the rule is likely to substantially achieve the rule making objective in a more cost-effective manner, or with greater net benefits, than the other reasonable alternatives considered by the agency.

If the agency cannot make those determinations, it shall: (1) explain why such determinations cannot be made; (2) identify any statutory provision or other factor that prevents such determinations; and (3) describe a reasonable alternative considered by the agency, if feasible, that would allow the agency to make such determinations.

The agency shall include an executive summary in the regulatory analysis and in the statement of basis and purpose for the rule.

There is an exception from the regulatory analysis requirements when an agency must act expeditiously to address an imminent threat to health, safety or the environment.

2. Risk assessment principles (§624). If the major rule has the primary purpose of addressing health, safety, or environmental risks, or results in a significant substitution risk, the regulatory analysis must also include a risk assessment following general statutory criteria to ensure that the assessment is scientifically sound and transparent, including: Identify and explain assumptions made when measuring risks; provide appropriate opportunities for public comment and participation during the development of the risk assessment; disclose relevant information about the risk, including the range and distribution of risks and corresponding exposure scenarios, identifying the range and distribution and likehood of risk to the general population and any sensitive subpopulations, including the most plausible estimates of the risks; when scientific information permits, compare the risk being analyzed with other reasonably comparable risks familiar to and routinely encountered by the general public.

3. Peer review (§625). Agencies shall conduct independent peer review for risk assessments and cost-benefit analyses related to major rules. Peer review is not required where the agency and OMB certify that an assessment or analysis has previously been subjected to adequate peer review.

4. Deadlines for rule making (§626). For two years after the Act becomes effective, agencies are provided with a 6-month time extension from a regulatory deadline if needed to satisfy the requirements of the Act.

5. Judicial Review (§627). Judicial review is limited to making sure that agencies perform the cost-benefit analyses and risk assessments for major rules. (The process for and content of such analysis is not subject to separate judicial review.) The cost-benefit analysis and risk assessment are to be included in the rule making record for purposes of judicial review of the final rule under the deferential arbitrary and capricious standard.

6. Guidelines, interagency coordination, and research (§628). Within 9 months, OMB is required to consult with OSTP and relevant agencies to develop broad guidelines for risk assessments and cost-benefit analyses consistent with the Act.

Within 18 months, each relevant agency shall develop more detailed guidelines for risk assessments tailored to agency programs consistent with the OMB/OSTP guidelines.

OMB shall consult with OSTP to coordinate and improve agency cost-benefit analysis and risk assessment practices and to develop a strategy to agency research and training needs.

Within 6 months, OMB shall consult with OSTP to arrange for research to identify and evaluate a common basis to assist comparative risk analysis and risk communication related to both carcinogens and noncarcinogens; and to appropriately incorporate risk assessments into cost-benefit analyses.

7. Comparative risk analysis study (§629). OMB, in consultation with OSTP, shall enter into a contract with an accredited scientific institution to conduct a study that provides a comparison of significant health, safety and environmental risks, the methodologies for such comparisons, and technical guidance and recommendations on the use of comparative risk analysis to set priorities within and across agencies.

Within 5 years, the President shall submit a report to Congress recommending legislative changes to assist in setting priorities to more effectively and efficiently reduce risks to health, safety and the environment.

8. Review of Rules (§§631–633). Each agency that has issued a major rule within the last 10 years shall establish a balanced advisory committee to recommend a list of rules that the agency should review to increase net benefits. Membership of the committee shall include a balanced cross-section of the public and private interests affected by agency regulations, including small business, small governments, and public interest groups.

After reviewing the recommendations of the advisory group, the agency shall develop and issue a schedule of rules to be reviewed every 5 years, taking into account the extent of the agencies resources to review such rules. The agency may continue, modify or repeal the reviewed rule pursuant to notice and comment rule making.

9. Executive Oversight (§§641–644). The bill codifies the regulatory review process and sets out responsibilities and authority of the Office of Information and Regulatory Affairs (OIRA) to develop policies and procedures to review regulatory actions and to develop and oversee an annual government-wide regulatory planning process that includes the review of major rules and other significant regulatory actions.

OIRA shall establish procedures to provide public and agency access to information concerning regulatory review actions.

Information to be disclosed to the public includes: the status of regulatory actions; written communications between OIRA and the agency on the regulatory action; written communications between OIRA and persons outside the Executive Branch; and a list identifying the dates, names of individuals involved, and subject matter discussed in meetings and telephone conversations relating to the regulatory action between OIRA and persons not employed by the Executive Branch.

Information to be disclosed to the regulatory agency includes: written communications between OIRA and persons outside the Executive Branch on a regulatory action; a list identifying the dates, names of individuals involved, and subject matter discussed in meetings and telephone conversations relating to the regulatory action between OIRA and persons not employed by the Executive Branch; and a written explanation of any review action taken.

The agency shall include in the rule making record: a document identifying the substantive changes between the draft submitted to the Director for review and the rule subsequently announced; a document identifying those changes in the rule that were made at the suggestion or recommendation of the Director; and all written communications exchanged between the Director and the agency during the review of the rule, including drafts of all proposals and associated analyses.

10. Effective Date (Section 4). The Act shall take effect 180 days after the date of enactment, but shall not apply to any agency rule for which a notice of proposed rule making is published on or before August 1, 1997.

Mr. THOMPSON. Mr. President, I am pleased to be able to join with Senator LEVIN and several of our colleagues in introducing legislation to improve how the federal government regulates. This legislation is an effort by some of us to devise a common solution to the problems of our regulatory system. We have some real political differences among us, but we all share the same goals: clean air and water, injury free workplaces, safe transportation systems, to name a few of the good things that can come from regulation. We also all share the goal of avoiding regulation which unnecessarily interferes in people's lives and businesses, which costs more than it benefits, or which—inadvertently—causes actual harm.

I am pleased we are introducing this bill with Senators GLENN, ABRAHAM, ROBB, ROTH, ROCKEFELLER and STEVENS. They have all toiled in the fields to improve regulation.

It was in this spirit that the legislation we are introducing today was drafted. The Regulatory Improvement Act will promote the public's right to know how and why agencies regulate, improve the quality of government decisionmaking, and increase Government accountability and responsiveness to the people it serves.

The problem is that agencies sometimes lose sight of common sense as they create regulations. Then even well-intentioned rules can produce disappointing results.

Consider the airbag issue that has been in the news lately. The National Highway Transportation Safety Administration required high-force airbags to maximize the odds of survival for adult males in highway crashes. But the deployment force from these airbags can be so severe that they can injure children, women, and the elderly. Senator KEMPTHORNE has spoken about the tragic death of a young girl from Idaho who was decapitated when an airbag deployed during a low-impact collision. The agency is now considering the use of an airbag cut-off switch to avoid these tragedies. But Mr. President, tragedies like this never should have occurred. We could have avoided needless deaths and injuries if the agency had carefully considered the risks that high-impact airbags pose to certain populations. I hope today's proposal will correct mistakes like this before they occur.

A second example is the removal of asbestos from our schools and other public buildings. Early in the 1980s, government scientists argued that asbestos exposure could cause thousands of deaths. Congress responded by passing a sweeping law that led cities and states to spend nearly $20 billion to remove asbestos from public buildings. After further research, EPA officials eventually concluded that ripping out the asbestos had been an expensive mistake. Ironically, removing the asbestos actually raised the risk to the public—because asbestos fibers become airborne during removal. This mistake never would have occurred if these increased risks had been considered in the first place. I hope that would change under the Regulatory Improvement Act.

Finally, let me mention our Superfund requirements. Superfund was passed with the good intention of cleaning up America's toxic wastesites. Unfortunately, things are not working as well as intended. Superfund has become a legal and regulatory maze where a good 90 percent of insurers' costs and 20 percent of liable parties' costs are spent on lawyers and consultants—not on cleaning up the environment. We also have to ask if we are focusing on the most important priorities. For example, Superfund imposes extremely stringent standards for cleaning up lead in groundwater. Now, this is a good rule in many cases, because lead can be very toxic to children. The problem is that we may be overlooking more direct threats to children from lead. For example, lead paint in old houses can be a greater threat to children's health than lead that may be under some industrial site where there are no children. Last congress, our committee heard testimony about how the Superfund law requires groundwater in a Newark railyard to be cleaner than drinking water—at enormous cost. Now, if land is going to be used for industrial purposes, and no children will be there, does this make sense? The answer may be no—those requirements may not improve the environment much, but they may drive businesses out of Newark. Nobody wants to open a business near a Superfund site and risk being sued. No wonder our inner cities are starved for jobs. In the end, we may be hurting the very people we should be concerned about—the inner-city poor, those who already have to live with many risks in their daily lives, those who do not have clout here in Washington.

Virtually every serious student of the regulatory process agrees we can do better. One study by the Harvard Center for Risk Analysis found that if agencies simply set their priorities in a smarter way, we could save an additional 60,000 lives per year at no additional cost. Mr. President, we don't have a moment to lose when we could save more lives. We can set aside partisan politics, and we all can agree this is the right thing to do.

Since I became chairman of the Governmental Affairs Committee, I have been working closely with Senator LEVIN to forge bipartisan legislation with three major purposes:

First, to promote the public's right to know how and why agencies make

regulatory decisions. This legislation helps the public to understand agency decisions by directing agencies to—

Allow the public to comment and participate as rules are developed; disclose the benefits and burdens of major rules; disclose any environmental, health and safety risks a rule is designed to reduce, and make those risks understandable by comparing them with other risks familiar to the public; and identify major assumptions and uncertainties considered in creating rules.

Second, to improve the quality of government decisionmaking. Careful thought, grounded in science, will help us to target problems and to find better solutions. We must carefully craft new rules to be effective and efficient. Agencies will carefully consider the benefits and burdens of rules and use good scientific and technical information. Agencies will seek out smarter ways to regulate, including flexible approaches such as outcome-oriented performance standards and market mechanisms. We must modernize and improve rules already on the books. Independent committees will advise agencies how to revise rules to substantially increase the benefits to the public.

And finally, to increase Government accountability to the people it serves. The Act will require agencies to—

Clearly present regulatory proposals so the public, the Congress, and the President can understand the problem at hand and help find a solution; explain any legal impediment or other factor hindering the agency from issuing cost-effective and sensible regulations, and describe any superior alternatives; disclose realistic estimates of any risks addressed; document changes made to proposed rules when the rules are reviewed by the Office of Management and Budget [OMB]; disclose contacts from persons outside the executive branch with OMB when it is reviewing proposed rules, since such contacts may represent outside influence.

Mr. President, while it is important to review what this legislation will accomplish, it also is important to note that this proposal avoids the contentious issues that thwarted agreement on legislation last Congress.

First, this legislation does not contain a supermandate. That is, while we believe that cost-benefit analysis is an important tool to inform agency decisionmaking, the results of the cost-benefit analysis do not trump existing law. The bill explicitly recognizes that sometimes an agency will issue a rule that would not pass a cost-benefit test. We only ask the agency to explain why it selected such a rule, including any legal impediment that hindered the agency from issuing a cost-justified rule.

Second, this bill does not contain a petition process that would allow outside parties to sue agencies in court to change particular rules that the litigant does not like. While we believe there are fruitful opportunities to update and improve old rules, we do not want to set up a review process that could create a litigation morass. Instead of a petition process, agencies will use independent advisory committees that would recommend a list of rules that could be improved to substantially increase net benefits to the public. The agency would defer to the recommendations of the advisory committee, but they could not be dragged into court if someone wanted a different rule to be reviewed.

Finally, this bill strikes a balanced approach to judicial review. We allow limited judicial review under the deferential arbitrary and capricious standard to ensure that agencies issue reasonable regulations using the tools of cost-benefit analysis and risk assessment. But this legislation does not provide a series of trip wires that could hinder agencies from performing their missions. In other words, we realize the agencies may not be perfect in complying with this law. They may make mistakes from time to time. We won't imperil important regulations because the agency made honest mistakes. We just ask the agency to make reasonable and honest decisions, and the public deserves no less.

Mr. President, we are devoting vast resources to achieve our regulatory goals. By some estimates, the annual regulatory burden is nearly $700 billion per year—almost $7,000 for the average American household. Our regulatory goals are too important, and our resources are too precious, to spend this money unwisely.

The Regulatory Improvement Act will ensure that agencies conduct better economic and scientific analysis before they issue regulations. Government will be more open to the public, will better explain the problem, and will consider the best available information to solve the problem. Agencies will consider the benefits and burdens of different regulatory alternatives so we can reach the most sensible solutions. And agencies will modernize old rules on the books to increase the benefits to the public. In the process, we won't sacrifice our important national goals and values. We can make our Government more effective, more open, and more accountable than ever.

Mr. GLENN. Mr. President, I am very pleased today to cosponsor the Regulatory Improvement Act of 1997. This legislation, introduced today by my colleagues Senator CARL LEVIN and Senator FRED THOMPSON, reflects a bipartisan effort to establish a balanced, comprehensive governmentwide standard for Federal rulemaking.

As former chairman and current ranking member of the Committee on Governmental Affairs, I have worked for over a decade to improve the Federal regulatory process. I must note that with me at every step has been my good friend and colleague, Senator CARL LEVIN. Now, we are joined by our new Committee Chairman, Senator FRED THOMPSON. I am very happy to take part in this bipartisan effort.

Regulatory reform has seen many forms in Congress over the years, from S. 1080 over 15 years ago, to several bipartisan bills in the 104th Congress—S. 291, our unanimous Governmental Affairs Committee bill introduced by Senator ROTH and me, the Dole-Johnston S. 343, and the Glenn-Chafee S. 1001. While these bills differed in many ways, they all had one thing in common, a bipartisan resolve to reform the Federal regulatory process.

The regulatory process is important because in our system of government, Congress relies on agency regulations to ensure the effective implementation of the laws we enact. Improved public health and safety and environmental protection are some of the successes provided by this process.

Unfortunately, despite these successes, congressional oversight has shown there are too many instances where agencies have regulated without sufficiently analyzing the costs and benefits of regulation. Individuals, businesses, and State and local governments pay too high a price for such thoughtless rules. They also are often burdened by statutory requirements that force agencies to impose overly prescriptive requirements, unnecessary unfunded mandates, or unjustified costs.

So, while I have supported many programs to improve health and safety and the environment, I have also worked to improve the regulatory process. This has involved legislation and oversight in several different areas. For example, the Paperwork Reduction Act, which we strengthened in 1995, requires Federal agencies to reduce burdensome information collection activities, such as forms and regulatory reporting requirements. The Unfunded Mandates Act of 1994, which I introduced with Senator DIRK KEMPTHORNE, requires Congress and Federal agencies to account for unfunded legislative and regulatory requirements imposed on State and local governments. Most recently, I supported enactment of the Congressional Review Act, which provides for expedited congressional review of new regulations, so that we, as politically accountable public representatives, can take responsibility for implementation of the laws we enact.

These initiatives addressed several parts of the administrative process. Still lacking is a comprehensive statutory framework for regulatory analysis. The search for the right mix of these regulatory analysis requirements was at the heart of the regulatory reform debate in the early 1980's, in the last Congress, and now again, in the legislation introduced today.

I believe that this legislation would establish the needed reforms in a balanced and fair manner. It would require cost/benefit analysis and risk assessment of major rules, and require periodic review of existing rules. These basic requirements will improve regulatory decisionmaking and ensure that

Congress and the public are better informed about regulatory impacts.

I believe that such regulatory reform can improve our Government and reduce regulatory burdens without harming important public protections. As I said many times during the debate in the last Congress, true regulatory reform must strike a balance between the public's concern over too much government and the public's strong support for regulations to protect the environment, public health and safety. The legislation developed by Senator LEVIN and Senator THOMPSON strikes this balance. It requires:

Cost-benefit analysis and risk assessment of major rules; An agency cost justification statement to explain whether a rule's benefits justify its costs and whether it is more cost-effective or has more net benefits than other alternatives. If the agency cannot make that determination, it must explain why not, and if feasible describe an alternative that would, if permitted, be cost justified; peer review of cost-benefit analyses and risk assessments; OMB regulatory review, with sunshine protections for fairness and accountability; judicial review of relevant regulatory analyses, but only in the context of review of the final rule and the rulemaking record; and periodic review of existing rules.

All in all, I believe these are the necessary core elements of an effective regulatory reform bill. Nonetheless, past debates have shown that the devil is in the details. This legislation will be no exception. There are several areas, in fact, that I believe should be examined closely in committee hearings to ensure that the regulatory process is improved and not impeded by this reform effort.

First, the legislation's most fundamental provision is the requirement that all agency major rules must have a cost-benefit analysis. I believe that given 16 years experience with regulatory review under Presidential Executive order, it is appropriate to establish a statutory bottom line that all major rules must be accompanied by a cost-benefit analysis. While a cost-benefit analysis should not control decisionmaking, it is a very useful tool for decision-making, and should be used to the extent both practical and permitted.

We need to be sure, however, that this requirement is not used to undermine program-specific statutory requirements that may, for example, preclude consideration of certain costs or alternatives. While I believe that a cost-benefit analysis should be done to inform every major rulemaking decision, if a statute requires a certain approach to decisionmaking, the agency has to be bound by that requirement.

I think it will be very important to discuss this issue during committee hearings and decide whether the bill's formulation is sufficient. A more explicit savings clause may be needed. While we want to improve decisionmaking, we do not want paralysis by analysis. And we do not want to create new avenues for litigation to undermine statutory requirements. If there is a problem with a statute, Congress should be informed and Congress should correct the problem.

The bill's second basic requirement is for evaluating the risks that would be addressed by a major rule. This is also a fundamental provision, but here too, I believe it will be very important to explore the bill's specific risk assessment language in more detail during committee hearings. For example, while science can provide critical data with which to inform a rulemaking decision, often times general observations cannot be reliably reduced to single point conclusions. Thus, I am concerned that the bill's use of the phrase ''most plausible estimate of risk'' could lead to the arbitrary selection of a single risk figure, when a range of risks is all that the scientific evidence would support. I agree that agencies should not be led by speculation, but we must not lose sight of the fact that caution is always in order when it comes to protecting public health and safety, and the environment.

Finally, committee hearings will also be needed to explore the practical impact of the legislation's requirements for agency advisory panels, both for peer review of regulatory analyses and identifying current rules for review. These panels can provide a fair and effective means of providing important information to agencies. But they can also be used to unfairly sway decisionmakers and obscure behind-the-scenes lobbying. Care must be taken to ensure that such panels are broadly representative and do not introduce undue delay or waste agency resources. Again, our committee hearings will be important to discuss these issues.

Senator LEVIN and Senator THOMPSON are to be commended for the work they have done to sift through the contentious regulatory reform record and draw out the core requirements and many of the needed details for effective regulatory analysis. I believe we are very close to having a bill that should pass the Senate unanimously. I support this legislation and urge my colleagues to support it.

Mr. ROBB. Mr. President, I rise today in support of comprehensive, responsible reform of our regulatory process. It has been a long and tortuous journey. Many thought it could not be done. But I'm pleased that it has been done, and I'm pleased to join Senators LEVIN and THOMPSON as an original sponsor of the Regulatory Improvements Act of 1997.

Efforts to reform the regulatory process began long before this Congress, and the legislation we're introducing today is a testament to the tenacity of Senator LEVIN, who has worked untiringly for responsible changes in the regulatory process for a long time. Senator BUMPERS, as well as our former colleagues Senators Johnston, Nunn and Heflin, toiled in these vineyards for many years.

The reason for this continued effort is clear. Regulations produce enormous benefits for society, protecting workers, conserving our environment, and promoting public health. But regulations also impose a tremendous cost on society. The purpose of regulatory reform is to make sure the benefits of the regulations warrant the costs.

According to the GAO, expenditures relating to pollution abatement alone exceeded $110 billion in 1992. While this represents only a portion of the costs of regulation, it provides some guidance regarding the magnitude of regulation. If we can maintain the level of pollution abatement, but increase the efficiency in how we attain it, consumers will ultimately reap the benefits. And of course every dollar that a business spends beyond what is necessary to protect us and our resources is one less dollar that could otherwise be used to hire an employee, or fund a pay raise, or pay for a plant expansion. Not only will consumers benefit, but so will the economy.

Regulating in a cost-effective fashion simply makes sense. If we can achieve the same environmental benefit for less money, or even better, achieve more environmental benefit for the same money, then it makes sense to do so.

While the debate over regulatory reform has in the past been presented as a choice between the economy and the environment, there is a responsible middle ground. If done wrong, regulatory reform could harm the environment, but if done right, both the economy and the environment benefit.

As noted by Vice President GORE in November 1995, in announcing one of the administration's regulatory reform initiatives:

> For decades, the American political system pitted the economy against the environment in a false conflict. America's business leaders were pitted against America's environmentalists. It seemed that too often for one side to get its way, the other side had to lose ground, and you had to decide which side you were on, business or the environment. Most people didn't like that choice, because most people, in their hearts, really are on both sides and don't see them as being in conflict.

I share the Vice President's view that we can protect both the environment and the economy. The benefits of regulatory reform will come primarily from relieving consumers from unnecessary costs and strengthening people's respect for government. In addition, by developing a responsible approach to regulatory reform, we will be able to prove what most of us having been saying for years—that we can be true to our principles to protect people and preserve our natural resources without being antibusiness and antigrowth.

At the same event in 1995, President Clinton reiterated that growing the economy and preserving our health and environment are compatible goals. The President stated that ''protecting the

health and safety of our citizens doesn't have to come at the expense of the bottom line,'' and that ''strengthening the economy doesn't have to come at the expense of the air we breathe, the food we eat, the water we drink.''

During the last Congress, we witnessed a massive effort to pass an extremely broad regulatory reform bill, offered by former Senator Dole.

Whether intentional or not, that bill could have lowered the standards regulating our health, our safety and our national resources.

In addition, that bill was too reliant on litigation to challenge the enforcement process. For example, the process for reviewing existing rules was driven largely by individual petitions each of which were subject to review by a court. That bill also raised the specter that agency rules could be overturned in court for minor procedural errors that were unlikely to have affected the outcome of the decisionmaking process.

The amount of litigation which would have been created by the original bill, coupled with excessive paperwork requirements, would have led to agency overload. Rather than focusing on producing and enforcing regulations to benefit society, the agencies would have been tied up in court or processing paper. And this problem would only have been exacerbated by deep cuts proposed for many of the affected agencies.

After the original bill failed cloture for the third time, former Senator Johnston, Senator LEVIN and I and our staffs spent a great deal of time and energy trying to find common ground. Many Senators from both sides of the aisle were committed to reforming the regulatory process, and we tried to use the synergy of the expertise of Senators LEVIN and Johnston to develop an acceptable package. Ideas and drafts were frankly exchanged during the many hours of meetings we held. In between meetings, we talked to interested parties, including labor groups, environmental groups, business groups and the administration. The purpose of this excercise of listening and drafting was to determine whether we could craft a responsible middle ground on regulatory reform.

The three of us came very close to settling on a middle ground, but eventually the Presidential campaign made it impossible to complete action. But what evolved from that process last year laid the groundwork for the efforts which began this Congress. With Presidential politics safely behind us, and with a substantially lowered decibel level, Senators THOMPSON and LEVIN were able to focus on the critical elements and develop responsible reform. The scope of the legislation has been narrowed to address only those issues which are essential to improving our regulatory process.

By focusing on the essential requirements of reform, we've avoided many of the pitfalls found in the Dole bill. By narrowing the scope, we've also been able to concentrate our attention on those elements which belong in a regulatory reform bill but which were not resolved satisfactorily in the earlier bill.

For example, we improved the ''look-back process'' which provides for the review of existing rules. The Dole bill allowed rules to be placed on the schedule for review either through agency action or a petitioning process reviewable by the courts. The petition process was for those who could show that a rule would fail to meet the decisional criteria. Each petition denied would have been separately reviewed by a court.

The bill we're introducing today eliminates the courts from the agency review process altogether. The question of which rules should be reviewed will not be the subject of litigation. In my view, this is one of the major improvements in this new version. Rather than having courts decide, through an adversary process, which rules should be reviewed, the bill takes a more rational approach. Under the new bill, an advisory committee made up of a cross-section of public and private interests affected by an agency's regulations will recommend to the agency which rules to review. Agencies are required to give deference to the committee's list, and undertake a review of the rules selected. This will allow agencies to spend more of their time reviewing rules and less of their time in court.

The most important aspect of a regulatory reform bill is how it will change agency behavior prospectively. We want to encourage agencies to choose the most cost-effective method for achieving the regulatory goal and to select a rule where the benefits justify its costs whenever possible.

Under current law, agencies are not directed to take those factors into account. In fact, agencies are given broad discretion under current law when developing rules to implement statutes. The only guide an agency must use to develop rules is the language of the statute upon which the rule is based. That is the standard against which an agency's action will be judged if challenged in court. The agency must be able to demonstrate that the rule satisfies the statutory requirement.

This legislation requires agencies to consider additional criteria in developing major rules. The rule would not only have to meet the standard contained in the statute upon which the rule is based, as required under current law, but would also have to consider whether the rule is the most cost-effective approach and meets a cost-benefit test. If the agency adopts a rule which is not the most cost-effective, or where the benefits do not justify the costs, the agency must explain why it chose that approach. We think consumers, taxpayers, and those subject to regulation have a right to know what benefits a proposed rule is likely to provide, and what the costs will be to achieve those benefits. We also think people have a right to know why an agency would select a rule other than the most cost-effective for meeting the objective of the statute.

The bill broadly defines ''benefits'' and ''costs,'' which provides agencies with vast discretion. ''Benefits'' are defined as ''the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable, including social, health, environmental, economic and distributional effects, that are expected to result directly or indirectly from implementation of, or compliance with, a rule.'' The term ''costs'' is similarly defined.

As I stated at the beginning of my comments, this has been a long, evolutionary process. But I think this legislation we are introducing today represents a responsible approach to improving the regulatory process. And I think it demonstrates what we can accomplish when we set aside partisan wrangling and rely on reason rather than rhetoric to solve complex problems such as this. Once again, I've been pleased to be involved in this process, and I commend both Senators LEVIN and THOMPSON for their determination to see this through to conclusion. I look forward to working with my colleagues to improving the product and moving this legislation through the process.

By Mr. DODD (for himself and Mr. BIDEN):

S. 983. A bill to prohibit the sale or other transfer of highly advanced weapons to any country in Latin America; to the Committee on Foreign Relations.

THE LATIN AMERICAN ARMS CONTROL ACT OF 1997

Mr. DODD. Mr. President, today, I come to the Senate floor to introduce legislation designed to send a signal to the Clinton administration that the current United States policy of banning the sale or transfer of sophisticated fighter aircraft and other armaments to Latin American countries—which has by and large been United States policy for some 20 years—should not be altered.

The bill I am introducing today would call upon the President to respect the requests of a number of Latin American leaders and prominent political figures to maintain a moratorium on the export of United States advanced weapons to that region. It would also prohibit the issuances of the necessary licenses for such exports unless the President first certificated that such sale was in the national security interest of the United States and the Congress concurred with that finding.

The Clinton administration is currently in the process of reviewing that policy predominantly as a result of heavy lobbying by those who are seeking to open up a new front for high dollar sales of state-of-the-art defense

technology to countries in the Western Hemisphere—particularly those in South America.

Mr. President, President Clinton has a record he can be proud of with respect to the Western Hemisphere. The 1994 Summit of the Americas, hosted by the United States, to which all but one head of state in the hemisphere was invited, was hugely successful.

Since that time, the President, together with his colleagues throughout the region, has endeavored to pursue the hemispheric agenda that the region's leaders agreed to during the course of that summit—namely to strengthen democracy, increase trade, bolster national security and combat drug trafficking.

I would respectfully assert that were the United States to alter our policy of arms restraint with respect to the region, we would be undermining efforts to implement those important hemispheric objectives. Heretofore, the President had been on the record in support of arms restraint, particularly with respect to sales to developing countries.

Last year, President Clinton joined with other members of the so called G–7 countries at the Lyon Summit to underscore the importance of developing and transition countries giving priority to avoiding unproductive expenditures, in particular excessive military spending.

The International Monetary Fund (IMF), which is responsible for monitoring economic policies and balance of payments throughout the world, has also given high priority to warning against the dangers of arms purchases.

Most recently, on June 19, during the Article IV consultations with the United States, where the performance of the United States economy was reviewed, the IMF staff, ''urged the United States, together with other major countries, to administer their policies on military sales to developing and transition economy countries in a way that avoids encouraging unproductive expenditures and heightening security tensions.''

It would be the ultimate irony, after all the time and effort that the President and his administration has expended in helping to plant the seeds of democracy in our own hemisphere, and in so carefully nurturing those seeds as they have germinated and bloomed, if he were to make a decision that would undermine all of those efforts.

I believe that a decision to alter our current policy to permit the export of highly advanced weaponry to the region would do just that. Over the medium term it could only serve to disturb the delicate regional military balance and thereby pose a serious threat to regional peace and economic prosperity.

Mr. President, if you were to listen to American defense contractors you would think that our current policy has prevented them from earning even 1 dollar on arms sales to Latin America. Nothing could be further from the truth. Between 1992–1995 the United States was the single largest supplier of weapons to Latin America, capturing more than 25 percent of that market. According to the Congressional Research Service during fiscal years 1993–1996, U.S. arms sales to Latin American nations averaged nearly $200 million annually.

No one is suggesting that Latin American countries, or that Latin American militaries do not have legitimate defense and national security requirements that can only be met from foreign sources. I would strongly argue that our current policy is absolutely compatible with those countries being able to fulfill their legitimate requirements.

Sales of appropriate U.S. defense articles and equipment have and should continue.

But, collective arms restraint should also be a part of any effort by regional leaders to prepare their armed forces for their role in the 21st century.

In that regard, I believe that the Governments of Argentina and Brazil deserve special recognition for the very significant progress they have made in this area.

Mr. President, the region is at peace. Democracy is the order of the day. The demands on governments throughout the region to meet pressing economic and social needs have never been greater while government resources are severely constrained. Now would seem a perfect opportunity to make real progress in reaching a regional arms control agreement to deter future arms races, and thereby better marshal scarce resources.

The entire region has just recently recovered from a decade of negative growth. And, while growth is now on the upswing in many countries, more than half of them currently have per-capita income levels below those achieved by them 10 years ago. The educational systems throughout the region need major infusions of resources to prepare the children of the Americas for the next decade. Currently, less than half of those children who enter the first grade remain in school through the fifth grade. This is a staggering statistic and one that needs to be changed. However, that isn't going to happen unless government resources are devoted to this objective.

Perhaps that is why there has been no drumbeat from governments throughout the hemisphere that President Clinton abandon our policy of arms restraint. In fact, heads of state from Argentina, Brazil, Uruguay, and Paraguay have publicly expressed their concerns about our altering the current United States policy.

They know better than we do, the kinds of pressures that they will confront from their own militaries once this proverbial cat is out of the bag.

One military instititution after another will seek to justify demands for more and more costly defense expenditures in order to maintain parity with neighboring militaries—in some cases militaries that they have been in conflict within the last 20 years—Peru and Ecuador as recently as 1995.

I am strongly supportive of efforts designed to improve U.S. export performance. Certainly we all want to see U.S. exports continue to grow—exports are critical to the health of our own economy and are a primary source of jobs for hard working American men and women.

However, I would argue that it is shortsighted on our part to push countries in the hemisphere to divert scarce resources for nonproductive, one-time, arms purchases.

These resources could be more wisely spent repairing badly eroded infrastructures and on other productive investments that will reduce unemployment in these countries and generate domestic purchasing power that will provide for a more stable and sustainable market for U.S. nondefense exports.

Mr. President, it is my hope that the legislation I am introducing today will call attention to the issues and concerns I have raised today, and hopefully will provoke a serious debate on the wisdom of altering a policy that has worked so well to promote U.S. interests in this hemisphere.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from former President Jimmy Carter in support of this legislation, along with the text of the bill.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

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 ''Latin American Arms Control Act of 1997''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) It has been United States policy since the Presidential directive of May 19, 1977, to refrain from making sales or other transfers to governments of Latin American countries of highly advanced weapons systems that could undermine regional military balances or stimulate an arms race.

(2) There has only been one exception to that policy, the sale of F–16 fighter aircraft to Venezuela in 1982, in response to a perceived Cuban military buildup, including the acquisition by Cuba of Soviet-made MIG–23 fighters.

(3) While United States defense companies have not been able to sell highly advanced weapons to Latin America, they are a major supplier of military equipment to the region and hold the largest share of that market.

(4) From fiscal year 1993 through fiscal year 1996 the United States Government sold $789,000,000 in arms to Latin America.

(5) In August 1996, Secretary of State Warren Christopher stated that his ''strong conviction is that we should be very careful about raising the level of competition between countries with respect to arms sales''.

(6) There are historic hostilities and mistrust in Latin America that can flare into serious conflict, as evidenced most recently

by the 1995 border war between Peru and Ecuador that required international efforts to resolve.

(7) For the first time in modern history, all but one country in the Western Hemisphere is governed by democratically elected leaders.

(8) Latin America has just recovered from a decade of negative growth, as measured on a real per capita basis, and 18 of the countries in the Western Hemisphere currently have per capita income levels below those achieved by them ten years ago.

(9) Poverty and insufficient educational opportunities continue to be a major challenge to democratic governments in the Western Hemisphere, with less than one-half of the children entering first grade remaining in school until grade five, and with more than 100,000 street children in cities throughout Latin American countries.

(10) At the meeting of the Council of Freely Elected Heads of Government on April 29, 1997, representatives of Latin American governments on the Council discussed the issue of arms sales to Latin American countries, pledged to accept a two-year moratorium on the purchase of highly advanced weapons, called upon countries in the Western Hemisphere to explore ideas to restrain future purchases, and called upon the United States and other governments that sell arms to affirm their support for such a moratorium.

SEC. 3. SENSE OF THE SENATE.

It is the sense of the Senate that the President should respect the request of Latin American heads of government for a two-year moratorium on the sale or other transfer of highly advanced weapons to Latin American countries while proposals for regional arms restraint are studied.

SEC. 4. PROHIBITION.

(a) IN GENERAL.—Notwithstanding any other provision of law, under the Arms Export Control Act or any other Act—

(1) no sale or other transfer may be made of any highly advanced weapon to any Latin American country,

(2) no license may be issued for the export of any highly advanced weapon to any Latin American country, and

(3) no financing may be extended with respect to a sale or export of any highly advanced weapon to a Latin American country,

unless the requirements of subsection (b) are satisfied and except as provided in subsection (c).

(b) REQUIREMENTS.—The requirements of this subsection are satisfied if—

(1) the President determines and certifies to Congress in advance that the sale, transfer, or financing, as the case may be, is necessary to further the national security interests of the United States; and

(2) Congress has enacted a joint resolution approving the Presidential determination.

(c) EXCEPTION.—Subsection (a) does not apply to any sale, sales, financing, or license permitted by an international agreement that provides for restraint—

(1) in the purchase of highly advanced weapons by countries in Latin America; or

(2) in the sale or other transfer of highly advanced weapons to countries in Latin America.

SEC. 5. DEFINITION OF HIGHLY ADVANCED WEAPONS

In this Act, the term ''highly advanced weapons'' includes advanced combat fighter aircraft and attack helicopters but does not include transport helicopters.

THE CARTER CENTER,
Atlanta, GA, June 25, 1997.

Hon. CHRISTOPHER DODD,
U.S. Senate, Committee on Foreign Relations, Washington, DC.

TO SENATOR CHRISTOPHER DODD: I have read the draft, Latin American Arms Control Act, that you plan to introduce in the Senate. It is a far-sighted statement, which I hope your colleagues will endorse. Regrettably, the momentum for an arms race in South America seems to be increasing at the very moment that the Cold War is over and democracy has taken root. Your bill offers an alternative to an arms race in a way that respects Latin America.

I sincerely hope your colleagues join you in this important endeavor at discouraging an arms race in Latin America. I commend you for your leadership in Congress on this issue. Let me know if there is anything else I can do to further our shared goal.

Sincerely,

JIMMY CARTER.

Mr. BIDEN. Mr. President, I am pleased to join the Senator from Connecticut in sponsoring legislation aimed at preventing the commencement of an arms race in Latin America.

For the past two decades, the United States has prohibited the sale or transfer of advanced military equipment to the region. The ban, instituted by President Carter, has been generally maintained since the late 1970's, including during the administrations of Presidents Reagan and Bush. The lone exception occurred in 1982, in response to a perceived Cuban military buildup, when the United States sold F–16 fighter aircraft to the Government of Venezuela.

The ban was instituted during a different era, when many nations of the region were under the rule of military dictators. To be sure, the nations of Latin America have made important advances since that period. Politically, dictatorship has given way to democracy. Every nation of the hemisphere—with the glaring exception of Cuba—is now governed by a democratically chosen leader. Additionally, after the lost decade of the 1980's—a period of negative economic growth in many nations of the region—the region is beginning to recover economically. Indeed, the nations of the region have made tremendous progress in the past few years, shedding the statist policies of past decades and embracing free markets and free trade.

Although the times have changed, the need for restraint in the sale of arms has not. First, although the region is advancing economically, it is abundantly clear that few nations of the region can afford the high costs that an arms race would impose. Second, an arms race in the region would be destabilizing—not only among nations of Latin America, but within those nations where civilian control of the military is not yet fully consolidated. The Armed Forces remain important institutional actors in many nations of the region; the increased emphasis on arms procurement and arms budgets could undermine the priorities and powers of the civilian leadership.

In the past year, there has been considerable discussion within the Clinton administration, and among the nations of the region, about the wisdom of lifting the U.S. ban on the sale of advanced weapons. In this respect, it is important to note that many senior figures in Latin America have come down on the side of restraint. In April of this year, for example, the Council of Freely Elected Heads of Government—an organization consisting of current and former hemispheric leaders from leading countries in the region—called on Latin American governments to ''accept a moratorium of two years before purchasing any sophisticated weapons.'' In the interim, the Council urged governments of the region to ''explore ideas to restrain such arms,'' and urged governments that sell arms, including the United States, ''to affirm their support for such a moratorium.''

This legislation that Senator DODD and I introduce today would heed that request by expressing support for such a moratorium, and banning the transfer to the region of highly advanced weapons by the United States, unless such transfer conforms to an international agreement governing sales to, or purchases by, nations of the region. In other words, if a regional arms control agreement is negotiated permitting some sales but prohibiting others, arms transfers by the United States would be allowed, provided such transfers conform to the arms control agreement then in place.

It should be emphasized that this bill would not ban all sales of military equipment to Latin America. Rather, it would merely continue, in law, the policy and practice adhered to by the executive branch for the past two decades: to not sell sophisticated military equipment such as advanced combat aircraft and attack helicopters to the nations of Latin America. It would permit U.S. firms to continue to sell other military equipment to Latin America—a market in which the United States now holds the largest share, and in which U.S. firms have sold a total of nearly $800 million over the past 4 fiscal years.

Mr. President, it is the policy of the United States to promote greater hemispheric integration—an objective pursued in the process initiated at the Summit of the Americas, which was hosted by President Clinton in 1994. The policy set forth in this bill advances that objective by honoring the request of several Latin American nations that they pursue a regional arms control approach before advanced weapons are introduced into the region. I urge my colleagues and the administration to support this legislation.

By Mr. GRAHAM (for himself, Mr. DEWINE, Mr. MACK, Mr. MCCAIN, and Ms. MOSELEY-BRAUN) (by request):

S. 984. A bill to promote the growth of free enterprise and economic opportunity in the Caribbean Basin region, increase trade and investment between the Caribbean Basin region and the United States, and encourage the adoption by Caribbean Basin countries of

policies necessary for participation in the free trade area of the Americas; to the Committee on Finance.

THE UNITED STATES-CARIBBEAN BASIN TRADE ENHANCEMENT ACT

Mr. GRAHAM. Mr. President, I rise this afternoon to introduce the United States-Caribbean Basin Trade Enhancement Act, and I am proud to be joined by my colleagues Senators DEWINE, MACK, MCCAIN, and MOSELEY-BRAUN.

This bill will enhance both our economic and national security, while at the same time strengthening that of some of our closest and most loyal neighbors and allies—the nations of the Caribbean Basin.

Over the last decade, the United States has played a vital role in the spread of democracy and the growth of free enterprise throughout the Western Hemisphere.

Today, every nation in the Western Hemisphere—with the notable, lamentable exception of Cuba, where despotism and communism are taking their last gasps of life—has a democratic government and is opening its economy in unprecedented ways.

Democratic elections have become the norm rather than the exception, and hemispheric trade integration is a common goal.

But we in the United States must not allow success to breed neglect.

Now is not the time to turn away from Latin America and Caribbean or to turn our back on our backyard, something, unfortunately, that we have done all too often in the past.

Continued attention is required to consolidate and institutionalize these democratic and economic gains.

As we have seen recently in Haiti, economic and political instability in the Caribbean region can have tragic consequences and impose enormous costs to the United States.

We must remain vigilant and engaged to ensure that other nations of the Caribbean Basin do not experience similar turmoil and tragedy.

The United States-Carribean Basin Trade Enhancement Act is part of our effort to consolidate democracy and economic stability in the region.

This act will bring tremendous benefits to the United States as well.

It is in both our economic and our national security interests to enact this legislation.

It will enhance our economic security both by opening new markets for American goods, and by strengthening the economies of our closest neighbors.

Increased economic growth among the nations of the region will provide growing markets for U.S. products.

The United States enjoys a trade surplus with the Caribbean Basin.

Historically, our economy has been the chief beneficiary of a lowering of trade barriers between the Caribbean Basin and the United States.

The United States' trade position relative to the Caribbean Basin countries improved dramatically following the implementation of the 1983 Caribbean Basin Initiative, from a deficit of $700 million in 1985 to a surplus of $2.0 billion in 1993.

On a per capita basis, our surplus with the Caribbean has consistently outplaced our surplus with any other region of the world.

In the past 3 years alone, U.S. exports to the Caribbean Basin countries have increased by 22.8 percent.

This act also provides incentives for continued legal and regulatory reform that will make it easier for U.S. products to compete in the markets of the Caribbean Basin.

By conditioning full benefits on the progress of economic reform, this act will benefit Americans as well as the people of the Caribbean.

It will open Caribbean markets to U.S. goods and services, and expand opportunities for U.S. businesses to enjoy the fruits of economic expansion that is occurring in the region.

Let me give a couple of examples of ways that the incentives in this legislation will help increase U.S. exports to the Caribbean.

First, in order to receive any benefits, a country must demonstrate its commitment to undertake its World Trade Organization obligations on or ahead of schedule, and it must participate in negotiations toward the completion of a hemispheric free-trade agreement. Those are requirements for initial participation in this program.

Second, Caribbean nations must meet certain economic requirements to receive the full benefits of our legislation, which are only available after the initial 3-year period.

These full benefits include equitable and reasonable market access to U.S. companies, protection of intellectual property rights, protection to investors and investments, aggressive action against corruption, transparent and competitive procedures in government procurement, and the adoption of internationally established rules on customs valuation.

This legislation also encourages our trading partners to enhance U.S.-Caribbean cooperation in fighting drug trafficking.

Mr. President, this legislation is not a free ride. It is a two-way street.

We are providing these nations with economic benefits, while at the same time expecting them to take steps that will be good for American economic interests.

This act will strengthen Caribbean economies while providing incentives to implement reforms that will open new markets, and reduce risk, for U.S. companies who wish to compete in the Caribbean market.

It will protect U.S. trademarks from piracy, permit U.S. companies to compete fairly for government procurement contracts, and help to eliminate corruption.

This is a good deal for both the United States the countries of the Caribbean Basin.

Our security interests are also at stake here. We have seen time and again how economic instability can foment political turmoil, which in turn can require American political or military involvement.

In the past, as the citizens of my home State of Florida know all too well, economic and political instability has also resulted in massive refugee flows to the United States, which place an unfair burden on U.S. taxpayers.

Second, the Caribbean has been one of the principal transit regions for drug traffickers moving their poisonous cargo from the source countries of South America.

Several years ago, our efforts at reducing drug trafficking in the Caribbean were so successful that we diverted the traffickers to the Southwest border.

Unfortunately, recent law enforcement efforts along the Southwest border have resulted in intensified relocated, re-energized narcotics trafficking in the Caribbean.

It is critical that the people of the Caribbean Basin have real opportunities in the legal economy so they are not forced to turn to drug trafficking to feed their families.

In addition, the recent World Trade Organization decision on bananas could have a devastating effect on the economies of several countries in the region, thereby exacerbating the potential for people to turn to illegal activities.

Strengthening Caribbean economies through enhanced trade and economic activity will help keep drugs off the streets of America, and out of the hands of America's children.

Mr. President, trade integration will occur in this hemisphere, whether we choose to be part of it or not.

It is in our interest to bring more countries into bilateral and multilateral trade agreements with the United States.

If we fail to seize this opportunity, others will take our place of leadership, and our economy will be the loser.

This legislation gives us an opportunity to set the parameters of trade agreements, so that we can ensure that United States' interests are secured, and that truly fair trading relationships are established.

There is no region in the world in which the United States has a stronger and more mutually beneficial relationship than the Caribbean Basin.

This bill will enhance our trading relationship with our neighbors and have tremendous benefits for the United States.

I urge my colleagues to consider and support the United States-Caribbean Trade Enhancement Act as a demonstration of our commitment to encouraging economic and political stability and to furthering the democratic progress that has been made in our hemisphere, and around the world.

Mr. President, I send the bill to the desk and ask for its appropriate referral, and I ask unanimous consent that

the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 984

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 ''United States-Caribbean Basin Trade Enhancement Act''.

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) The Caribbean Basin Economic Recovery Act (referred to in this Act as ''CBERA'') represents a permanent commitment by the United States to encourage the development of strong democratic governments and revitalized economies in neighboring countries in the Caribbean Basin.

(2) Thirty-four democratically elected leaders agreed at the 1994 Summit of the Americas to conclude negotiation of a Free Trade Area of the Americas (referred to in this Act as ''FTAA'') by the year 2005.

(3) The economic security of the countries in the Caribbean Basin will be enhanced by the completion of the FTAA.

(4) Offering temporary benefits to Caribbean Basin countries will enhance trade between the United States and the Caribbean Basin, encourage development of trade and investment policies that will facilitate participation of Caribbean Basin countries in the FTAA, preserve the United States commitment to Caribbean Basin beneficiary countries, help further economic development in the Caribbean Basin region, and accelerate the trend toward more open economies in the region.

(5) Promotion of the growth of free enterprise and economic opportunity in the Caribbean Basin will enhance the national security interests of the United States.

(6) Increased trade and economic activity between the United States and Caribbean Basin beneficiary countries will create expanding export opportunities for United States businesses and workers.

(b) POLICY.—It is the policy of the United States to—

(1) offer Caribbean Basin beneficiary countries willing to prepare to become a party to the FTAA or a comparable trade agreement, tariff treatment essentially equivalent to that accorded to products of NAFTA countries for products not currently eligible for duty-free treatment under the CBERA; and

(2) seek the participation of Caribbean Basin beneficiary countries in the FTAA or a trade agreement comparable to the FTAA at the earliest possible date, with the goal of achieving full participation in such agreement not later than 2005.

SEC. 3. DEFINITIONS.

In this Act:

(1) BENEFICIARY COUNTRY.—The term ''beneficiary country'' has the meaning given the term in section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)(1)(A)).

(2) CBTEA.—The term ''CBTEA'' means the United States-Caribbean Basin Trade Enhancement Act.

(3) NAFTA.—The term ''NAFTA'' means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

(4) NAFTA COUNTRY.—The term ''NAFTA country'' means any country with respect to which the NAFTA is in force.

(5) WTO AND WTO MEMBER.—The terms ''WTO'' and ''WTO member'' have the meanings given those terms in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

SEC. 4. TEMPORARY PROVISIONS TO PROVIDE ADDITIONAL TRADE BENEFITS TO CERTAIN BENEFICIARY COUNTRIES.

(a) TEMPORARY PROVISIONS.—Section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) is amended to read as follows:

''(b) IMPORT-SENSITIVE ARTICLES.—

''(1) IN GENERAL.—Subject to paragraphs (2) through (5), the duty-free treatment provided under this title does not apply to—

''(A) textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on that date;

''(B) footwear not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

''(C) tuna, prepared or preserved in any manner, in airtight containers;

''(D) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

''(E) watches and watch parts (including cases, bracelets, and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply; or

''(F) articles to which reduced rates of duty apply under subsection (h).

''(2) TRANSITION PERIOD TREATMENT OF CERTAIN TEXTILE AND APPAREL ARTICLES.—

''(A) PREFERENTIAL TARIFF AND QUOTA TREATMENT.—During the transition period—

''(i) GOODS ORIGINATING IN BENEFICIARY COUNTRY.—Clause (iii) applies with respect to a textile or apparel article that is a CBTEA originating good.

''(ii) CERTAIN OTHER GOODS.—Clause (iii) applies with respect to a textile or apparel article that is imported into the United States from a CBTEA beneficiary country and that—

''(I) is assembled in a CBTEA beneficiary country from fabrics wholly formed and cut in the United States from yarns formed in the United States, and is imported into the United States—

''(aa) under subheading 9802.00.80 of the HTS; or

''(bb) under chapter 61, 62, or 63 of the HTS, if after such assembly the article would have qualified for entry under subheading 9802.00.80 of the HTS but for the fact the article was subjected to stone-washing, enzyme-washing, acid-washing, perma-pressing, oven-baking, bleaching, embroidery, or garment-dyeing; or

''(II) is identified under subparagraph (C) as a handloomed, handmade, or folklore article of such country and is certified as such by the competent authority of such country.

''(iii) TARIFF TREATMENT.—

''(I) IN GENERAL.—The President shall proclaim—

''(aa) with respect to an article described in clause (i) imported into the United States from a CBTEA beneficiary country, a rate of duty equal to the lesser of 'x' or the amount determined by using the formula '.5(x-y) + y', in which the terms 'x' and 'y' have the meanings given such terms in subclause (IV); and

''(bb) with respect to an article described in clause (ii), imported into the United States from a CBTEA beneficiary country, a rate of duty equal to 50 percent of the amount of duty that otherwise would apply to such article.

''(II) ADDITIONAL REDUCTIONS.—On or after the date on which the President submits to Congress the first report required under section 212(f), the President may proclaim further reductions in duty for an article described in clause (i) or (ii) that is a product of a CBTEA beneficiary country if the President determines that the performance of the country is satisfactory under the criteria listed in paragraph (5)(C)(ii). The rate of duty proclaimed by the President shall be no less than—

''(aa) with respect to an article described in clause (i), the amount determined under subclause (III); and

''(bb) with respect to an article described in clause (ii), zero.

''(III) RATE OF DUTY FOR ARTICLES DESCRIBED IN CLAUSE (i).—For purposes of subclause (II)(aa), the amount of duty that the President may proclaim under such subclause with respect to an article described in clause (i) shall be the lesser of—

''(aa) the rate of duty that would apply to an article at the time of importation from a CBTEA beneficiary country but for the enactment of the CBTEA, or

''(bb) the tariff treatment that is accorded to a like article of Mexico under section 2 of the Annex as implemented pursuant to United States law.

''(IV) CERTAIN DEFINITIONS.—For purposes of this clause, the term 'x' means the rate of duty described in subclause (III)(aa) and the term 'y' means the tariff treatment described in subclause (III)(bb).

''(iv) NO QUANTITATIVE RESTRICTIONS.—Except as provided in subparagraph (E), no quantitative restriction or consultation level may be applied to the importation into the United States of any textile or apparel article that—

''(I) is a CBTEA originating good, or

''(II) qualifies for preferential tariff treatment under clause (ii)(I) or (II).

''(B) TRANSITION PERIOD TREATMENT OF CERTAIN NONORIGINATING TEXTILE AND APPAREL ARTICLES.—

''(i) REQUEST FOR PREFERENTIAL TARIFF TREATMENT.—At any time during the transition period, an interested United States person may submit in writing to the President a request that the President proclaim preferential tariff treatment described in clauses (iii) and (iv) with respect to any eligible textile or apparel article described in clause (ii). Upon receiving the request, the President shall determine promptly whether the article is eligible for preferential tariff treatment. If the President determines that the article is eligible for preferential treatment, the President shall proclaim such treatment with respect to the article. If the President does not make a determination within 120 days after the date a request is received, the request shall be treated as approved and all articles listed in the request that are described in clause (ii) shall be accorded the preferential treatment described in clauses (iii) and (iv).

''(ii) ELIGIBLE ARTICLES.—An article is described in this clause if it is an apparel article provided for in chapter 61 or 62 of the HTS and if—

''(I) it is a product of a CBTEA beneficiary country but does not qualify as a CBTEA originating good;

''(II) it is an article described in the same 8-digit subheading of the HTS as an article that would be eligible for the preferential tariff treatment under Appendix 6.B of the Annex, as implemented pursuant to United States law, if the article were imported from Mexico in quantities that are less than or equal to the quantities specified in Schedule 6.B.1; and

''(III) the President determines that—

''(aa) the fabric from which the article is made is not commercially available from producers in the United States, or

''(bb) if the article is knit-to-shape in a CBTEA beneficiary country, the yarn from which it is knit is not commercially available from producers in the United States.

''(iii) PREFERENTIAL TARIFF TREATMENT.—The amount of duty imposed during the transition period on an article receiving preferential tariff treatment under this subparagraph shall be identical to the tariff treatment that would apply to the article under subparagraph (A)(iii) if the article were a CBTEA originating good.

''(iv) QUANTITY OF ELIGIBLE ARTICLES RECEIVING PREFERENTIAL TREATMENT.—In any 12-month period, the quantity of eligible articles in any category imported from a CBTEA beneficiary country that may receive the preferential tariff treatment described in clause (iii) may not exceed ten percent of the quantity of articles in such category imported from such country under subheading 9802.00.80 of the HTS, excluding articles that qualified for preferential tariff treatment under subparagraph (A)(ii) (or would have qualified for such treatment if that paragraph had been in effect with respect to imports of such articles from such country), in the preceding 12-month period.

''(C) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—For purposes of subparagraph (A), the President, after consultation with the CBTEA beneficiary country concerned, shall determine which, if any, particular textile and apparel goods of the country shall be treated as being handloomed, handmade, or folklore goods of a kind described in section 2.3 (a), (b), or (c) or Appendix 3.1.B.11 of the Annex.

''(D) TRANSITION PERIOD ADJUSTMENT OF EXISTING QUANTITATIVE RESTRICTIONS.—

''(i) IN GENERAL.—During the transition period, the President, after negotiating with the CBTEA beneficiary country concerned, may reduce the quantities of textile and apparel articles that can be imported into the United States from that country under existing quantitative restrictions to reflect the quantities of textile and apparel articles from such country that are exempt from quota restrictions pursuant to subparagraph (A)(iv).

''(ii) TRANSSHIPMENTS.—Whenever the President finds, based on sufficient evidence, that transshipment within the meaning of clause (iii) has occurred, the President, after consultations with the CBTEA beneficiary countries through whose territories the President finds transshipment to have occurred, may reduce the quantities of textile and apparel articles that can be imported into the United States from each such country by such amount as the President determines.

''(iii) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this clause has occurred when preferential tariff treatment for a textile or apparel article under subparagraph (A) or (B) has been claimed on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this clause, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential tariff treatment under subparagraph (A) or (B).

''(E) BILATERAL EMERGENCY ACTIONS.—

''(i) IN GENERAL.—The President may take—

''(I) bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any textile or apparel article imported from a CBTEA beneficiary country if the application of tariff treatment under subparagraph (A) to such article results in conditions that would be cause for the taking of such actions under such section 4 with respect to a like article described in the same 8-digit subheading of the HTS that is imported from Mexico; or

''(II) bilateral emergency quantitative restriction actions of a kind described in section 5 of the Annex with respect to imports of any textile or apparel article of a CBTEA beneficiary country, including articles eligible for preferential tariff treatment under subparagraph (A), if the importation of such an article into the United States results in conditions that would be cause for the taking of such actions under such section 5 with respect to a like article described in the same 8-digit subheading of the HTS that is imported from Mexico.

''(ii) RULES RELATING TO BILATERAL EMERGENCY ACTION.—For purposes of applying bilateral emergency action under this subparagraph—

''(I) the requirements of paragraph (5) of section 4 of the Annex (relating to providing compensation) shall not apply;

''(II) the term 'transition period' in sections 4 and 5 of the Annex shall have the meaning given that term in paragraph (5)(G) of this subsection;

''(III) the requirements to consult specified in section 4 or 5 of the Annex shall be treated as satisfied if the President requests consultations with the beneficiary country in question and the country does not agree to consult within the time period specified under section 4 or 5, whichever is applicable;

''(IV) during the first 14 months after imports commence from a CBTEA beneficiary country under paragraph (2)(A) (or recommence because of a redesignation of such country), the minimum quantity of any textile or apparel article from such country subject to quantitative restrictions may be determined under paragraph 7 of section 5 of the Annex based on a reasonable estimate (using available data where possible) of the quantity of such articles imported from such country during the relevant period (as defined in such paragraph 7) that did not qualify or would not have qualified as originating goods; and

''(V) after the 14-month period described in subclause (IV), the minimum quantity of articles subject to such quantitative restrictions shall be determined under paragraph 7 of section 5 of the Annex based on the most recently available Bureau of the Census import statistics.

''(3) PREFERENTIAL TARIFF TREATMENT OF CERTAIN OTHER ARTICLES ORIGINATING IN CBTEA BENEFICIARY COUNTRIES.—

''(A) IN GENERAL.—During the transition period, the President shall proclaim a rate of duty, with respect to any article referred to in any of subparagraphs (B) through (F) of paragraph (1) that is a CBTEA originating good, equal to the lesser of—

''(i) 'x', or

''(ii) the amount determined by using the formula '.5(x-y) + y'.

For purposes of the preceding sentence, the terms 'x' and 'y' have the meanings given such terms in subparagraph (C).

''(B) ADDITIONAL REDUCTIONS.—

''(i) IN GENERAL.—On or after the date on which the President submits to Congress the first report required under section 212(f), the President may proclaim further reductions in the rate of duty for any article described in subparagraph (A) in accordance with this subparagraph if the President determines that the performance of the country is satisfactory under the criteria listed in paragraph (5)(C)(ii).

''(ii) RATE OF DUTY.—The rate of duty proclaimed by the President under this subparagraph shall be no less than the lesser of—

''(I) the rate of duty that would apply to the article at the time of importation from the country but for the enactment of the CBTEA, or

''(II) the tariff treatment that is accorded a like article of Mexico under Annex 302.2 of NAFTA as implemented pursuant to United States law.

''(C) CERTAIN DEFINITIONS.—For purposes of subparagraph (A), the term 'x' means the rate of duty described in subparagraph (B)(ii)(I) and the term 'y' means the tariff treatment described in subparagraph (B)(ii)(II).

''(D) EXCEPTION.—Paragraphs (A) and (B) do not apply to any article accorded duty-free treatment under U.S. Note 2(b) to subchapter II of chapter 98 of the HTS.

''(E) RELATIONSHIP TO DUTY REDUCTIONS UNDER SUBSECTION (h).—If at any time during the transition period the rate of duty that would (but for action taken under subparagraph (A) or (B)) apply with respect to any article under subsection (h) is a rate of duty that is lower than the rate of duty resulting from such action, then such lower rate of duty shall be applied.

''(4) CUSTOMS PROCEDURES.—

''(A) IN GENERAL.—

''(i) REGULATIONS.—Any importer that claims preferential tariff treatment under paragraph (2) or (3) shall comply with customs procedures similar in all material respects to the requirements of Article 502(1) of the NAFTA as implemented pursuant to United States law, in accordance with regulations promulgated by the Secretary of the Treasury.

''(ii) DETERMINATION.—In order to qualify for such preferential tariff treatment and for a Certificate of Origin to be valid with respect to any article for which such treatment is claimed, there shall be in effect a determination by the President that—

''(I) the CBTEA beneficiary country from which the article is exported, and

''(II) each CBTEA beneficiary country in which materials used in the production of the article originate or undergo production that contributes to a claim that the article is a CBTEA originating good, has implemented and follows, or is making substantial progress toward implementing and following, procedures and requirements similar in all material respects to the relevant procedures and requirements under chapter 5 of the NAFTA.

''(B) CERTIFICATE OF ORIGIN.—The Certificate of Origin that otherwise would be required pursuant to the provisions of subparagraph (A) shall not be required in the case of an article imported under paragraph (2) or (3) if such Certificate of Origin would not be required under Article 503 of the NAFTA (as implemented pursuant to United States law), if the article were imported from Mexico.

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

''(A) ANNEX.—The term 'the Annex' means Annex 300–B of the NAFTA.

''(B) CATEGORY.—For purposes of paragraph (2)(B)(iv), 'category' means a category that is described in the most current edition of the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States, prepared by the Department of Commerce.

''(C) CBTEA BENEFICIARY COUNTRY.—

''(i) IN GENERAL.—The term 'CBTEA beneficiary country' means any 'beneficiary country', as defined by section 212(a)(1)(A) of this title, which the President determines has demonstrated a commitment to—

''(I) undertake its obligations under the WTO on or ahead of schedule;

''(II) participate in negotiations toward the completion of the FTAA or a comparable trade agreement; and

''(III) undertake other steps necessary for that country to become a party to the FTAA or a comparable trade agreement.

''(ii) CRITERIA FOR DETERMINATION.—In making the determination under clause (i), the President may consider the criteria in sections 212(b) and (c) and other appropriate criteria, including—

''(I) the extent to which the country follows accepted rules of international trade provided for under the agreements listed in section 101(d) of the Uruguay Round Agreements Act;

''(II) the extent to which the country provides protection of intellectual property rights—

''(aa) in accordance with standards established in the Agreement on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act;

''(bb) in accordance with standards established in chapter 17 of the NAFTA; and

''(cc) by granting the holders of copyrights the ability to control the importation and sale of products that embody copyrighted works, extending the period set forth in Article 1711(6) of NAFTA for protecting test data for agricultural chemicals to 10 years, protecting trademarks regardless of their subsequent designation as geographic indications, and providing enforcement against the importation of infringing products at the border;

''(III) the extent to which the country provides protections to investors and investments of the United States substantially equivalent to those set forth in chapter 11 of the NAFTA;

''(IV) the extent to which the country provides the United States and other WTO members nondiscriminatory, equitable, and reasonable market access with respect to the products for which benefits are provided under paragraphs (2) and (3), and in other relevant product sectors as determined by the President;

''(V) the extent to which the country provides internationally recognized worker rights, including—

''(aa) the right of association,

''(bb) the right to organize and bargain collectively,

''(cc) prohibition on the use of any form of coerced or compulsory labor,

''(dd) a minimum age for the employment of children, and

''(ee) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

''(VI) the extent to which the country adopts, maintains, and effectively enforces laws providing for high levels of environmental protection;

''(VII) whether the country has met the counter-narcotics certification criteria set forth in section 490 of the Foreign Assistance Act of 1961 for eligibility for United States assistance;

''(VIII) the extent to which the country becomes a party to and implements the Inter-American Convention Against Corruption, and becomes party to a convention regarding the extradition of its nationals.

''(IX) the extent to which the country enters into and implements an agreement with the United States for the exchange of tax information, as described in section 274(h)(6)(C) of the Internal Revenue Code;

''(X) the extent to which the country—

''(aa) supports the multilateral and regional objectives of the United States with respect to government procurement, including the negotiation of government procurement provisions as part of the FTAA and conclusion of a WTO transparency agreement as provided in the declaration of the WTO Ministerial Conference held in Singapore on December 9–13, 1996, and

''(bb) applies transparent and competitive procedures in government procurement equivalent to those contained in the WTO Agreement on Government Procurement (described in section 101(d)(17) of the Uruguay Round Agreements Act);

''(XI) the extent to which the country follows the rules on customs valuation set forth in the WTO Agreement on Implementation of Article VII of the GATT 1994 (described in section 101(d)(8) of the Uruguay Round Agreements Act);

''(XII) the extent to which the country affords to products of the United States which the President determines to be of commercial importance to the United States with respect to such country, and on a nondiscriminatory basis to like products of other WTO members, tariff treatment that is no less favorable than the most favorable tariff treatment provided by the country to any other country pursuant to any free trade agreement to which such country is a party, other than the Central American Common Market or the Caribbean Community and Common Market.

''(D) CBTEA ORIGINATING GOOD.—

''(i) IN GENERAL.—The term 'CBTEA originating good' means a good that meets the rules of origin for a good set forth in chapter 4 of the NAFTA as implemented pursuant to United States law, and, in the case of a good described in Appendix 6.A of the Annex, the requirements stated in Appendix 6.A as implemented pursuant to United States law.

''(ii) APPLICATION OF CHAPTER 4 AND ANNEX 6.A.—In applying chapter 4 and Appendix 6.A with respect to a CBTEA beneficiary country for purposes of this subsection—

''(I) no country other than the United States and a CBTEA beneficiary country may be treated as being a party to the NAFTA;

''(II) any reference to trade between the United States and Mexico shall be deemed to refer to trade between the United States and a CBTEA beneficiary country;

''(III) any reference to a party shall be deemed to refer to a CBTEA beneficiary country or the United States; and

''(IV) any reference to parties shall be deemed to refer to any combination of CBTEA beneficiary countries or to the United States and a CBTEA beneficiary country (or any combination thereof).

''(E) INTERESTED UNITED STATES PERSON.—For purposes of paragraph (2)(B)(i), the term 'interested United States person' means—

''(i) a person doing business in the United States as—

''(I) an importer of wearing apparel or fabric piece goods, or

''(II) a producer of wearing apparel, or

''(ii) a labor union representing workers employed in the United States in the production of wearing apparel.

''(F) TEXTILE OR APPAREL ARTICLE.—The term 'textile or apparel article' means any article referred to in paragraph (1)(A) that is a good listed in Appendix 1.1 of the Annex.

''(G) TRANSITION PERIOD.—The term 'transition period' means, with respect to a CBTEA beneficiary country, the period that begins on the date of enactment of the CBTEA and ends on the earlier of—

''(i) September 30, 2005, or

''(ii) the date on which the FTAA or a comparable trade agreement enters into force with respect to the United States and the CBTEA beneficiary country.

''(H) CBTEA.—The term 'CBTEA' means the United States-Caribbean Basin Trade Enhancement Act.

''(I) FTAA.—The term 'FTAA' means the Free Trade Area of the Americas.''.

(b) DETERMINATION REGARDING RETENTION OF DESIGNATION.—Section 212(e) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(e)) is amended—

(1) in paragraph (1)—

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

(B) by inserting ''(A)'' after ''(1)'';

(C) by striking ''would be barred'' and all that follows through the end period and inserting: ''no longer satisfies one or more of the conditions for designation as a beneficiary country set forth in subsection (b) or such country fails adequately to meet one or more of the criteria set forth in subsection (c).''; and

(D) by adding at the end the following:

''(B) The President may, after the requirements of subsection (a)(2) and paragraph (2) have been met—

''(i) withdraw or suspend the designation of any country as a CBTEA beneficiary country, or

''(ii) withdraw, suspend, or limit the application of preferential tariff treatment under section 213(b)(2) and (3) to any article of any country, if, after such designation, the President determines that as a result of changed circumstances, the performance of such country is not satisfactory under the criteria set forth in section 213(b)(5)(C).''; and

(2) by adding after paragraph (2) the following new paragraph:

''(3) If preferential treatment under section 213(b)(2) and (3) is withdrawn, suspended, or limited with respect to a CBTEA beneficiary country, such country shall not be deemed to be a 'party' for the purposes of applying section 213(b)(5)(D) to imports of articles for which preferential treatment has been withdrawn, suspended, or limited with respect to such country.''.

(c) REPORTING REQUIREMENTS.—Section 212(f) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(f)) is amended to read as follows:

''(f) REPORTING REQUIREMENTS.—Not later than December 15, 2000, and at the end of each 3-year period thereafter, the President shall submit to Congress a report regarding the operation of this title, including—

''(1) with respect to subsections (b) and (c), the results of a general review of beneficiary countries based on the considerations described in such subsections; and

''(2) the performance of each CBTEA beneficiary country with respect to the criteria set forth in section 213(b)(5)(C)(ii).''.

(d) INTERNATIONAL TRADE COMMISSION REPORTS.—

(1) Section 215(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2704(a)) is amended to read as follows:

''(a) REPORTING REQUIREMENT.—

''(1) IN GENERAL.—The United States International Trade Commission (in this section referred to as the 'Commission') shall submit to Congress and the President, biennial reports regarding the economic impact of this title on United States industries and consumers.

''(2) FIRST REPORT.—The first report shall be submitted not later than September 30 of the year following the year in which the Caribbean Basin Trade Enhancement Act is enacted. No report shall be required under this section after September 30, 2005.

''(3) TREATMENT OF PUERTO RICO, ETC.—For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States are considered to be United States industries.''.

(2) Section 206(a) of the Andean Trade Preference Act (19 U.S.C. 3204(a)) is amended to read as follows:

''(a) REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—The United States International Trade Commission (in this section

referred to as the 'Commission') shall submit to Congress and the President, biennial reports regarding the economic impact of this title on United States industries and consumers, and, in conjunction with other agencies, the effectiveness of this title in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries.

''(2) SUBMISSION.—During the period that this title is in effect, the report required by paragraph (1) shall be submitted on September 30 of each year that the report required by section 215 of the Caribbean Basin Economic Recovery Act is not submitted.

''(3) TREATMENT OF PUERTO RICO, ETC.— For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States are considered to be United States industries.''.

(e) CONFORMING AMENDMENTS.—Section 213(a)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)(1)) is amended by inserting ''and except as provided in subsection (b) (2) and (3)'' after ''Tax Reform Act of 1986,''.

SEC. 5. ADEQUATE AND EFFECTIVE PROTECTION FOR INTELLECTUAL PROPERTY RIGHTS.

Section 212(c) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(c)) is amended by adding at the end the following flush sentence:

''Notwithstanding any other law, the President may determine that a country is not providing adequate and effective protection of intellectual property rights under paragraph (9), even if the country is in compliance with the country's obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)).''.

SEC. 6. DEFINITIONS.

Section 212(a)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)(1)) is amended by adding at the end the following new subparagraph:

''(D) The term 'NAFTA' means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

''(E) The terms 'WTO' and 'WTO member' have the meanings given those terms in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).''.

By Mr. TORRICELLI (for himself, Mr. LAUTENBERG, and Mr. HOLLINGS):

S. 985. A bill to designate the post office located at 194 Ward Street in Paterson, NJ, as the ''Larry Doby Post Office''; to the Committee on Governmental Affairs.

LARRY DOBY POST OFFICE LEGISLATION

Mr. TORRICELLI. Mr. President, I rise today with Senator LAUTENBERG to jointly recognize Larry Doby, the first African-American player in the American League. Mr. Doby's lifelong dedication to major league baseball, his community, and his country is truly remarkable and must be recognized. As an ambassador for baseball, Mr. Doby has served the league for nearly 20 years as a player, as a coach, and currently as a special assistant to the president of the American League.

Mr. Doby, born in Camden, SC, later moved to Paterson, NJ, where he starred in four sports and ultimately garnered numerous offers for athletic scholarships toward his higher education. Although Larry Doby accepted an offer to play basketball for Long Island University, his collegiate athletic career was shortened as he enlisted in the U.S. Navy to serve our country in World War II. Following World War II, Doby played for the Negro League Newark Eagles, where he led the league with a batting average of .458 and 13 home runs.

Some of Larry Doby's major league baseball accomplishments include being the first African-American player in the American League, the first African-American player on a world series team, and the second African-American to manage in the major leagues. Mr. Doby will be recognized by major league baseball at the all-star game in Cleveland. The naming of this post office in Larry Doby's honor in his hometown of Paterson would be a fitting tribute to this great American.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 985

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

SECTION 1. FINDINGS.

Congress finds the following:

(1) Larry Eugene Doby was born in Camden, South Carolina, on December 12, 1923, and moved to Paterson, New Jersey, in 1938.

(2) After playing the 1946 season in the Negro League for the Newark Eagles, Larry Doby's contract was purchased by the Cleveland Indians of the American League on July 3, 1947.

(3) On July 5, 1957, Larry Doby became the first African-American to play in the American League.

(4) Larry Doby played in the American League for 13 years, appearing in 1,533 games and batting .283, with 253 home runs and 969 runs batted in.

(5) Larry Doby was voted to 7 all-star teams, led the American League in home runs twice, and played in 2 World Series. He was the first African-American to play in the World Series and to hit a home run in a World Series game, both in 1948.

(6) Larry Doby was recognized for his remarkable achievements in baseball with his induction into the Baseball Hall of Fame in 1987.

(7) After his stellar playing career ended, Larry Doby continued to make a significant contribution to his community. He has been a pioneer in the cause of civil rights and has received honorary doctorate degrees from Long Island University, Princeton University, and Fairfield University.

SEC. 2. DESIGNATION OF LARRY DOBY POST OFFICE.

(A) IN GENERAL.—The post office located at 194 Ward Street in Paterson, New Jersey, shall be known and designated as the ''Larry Doby Post Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the post office referred to in subsection (a) shall be deemed to be a reference to the ''Larry Doby Post Office''.

Mr. LAUTENBERG. Mr. President, I rise to join with my friend and colleague, Senator BOB TORRICELLI, in introducing a bill to name a U.S. post office in my hometown of Paterson, NJ after a true American hero, Larry Eugene Doby.

Mr. President, 1997 marks the 50th anniversary of the breaking of major league baseball's color barrier. In April 1947, Jackie Robinson played his first game with the National League's Brooklyn Dodgers and ended segregation in our national pastime; simultaneously, he entered America's pantheon of heroes.

While we rightfully honor Mr. Robinson, we cannot forget that heroes rarely fight their battles alone. Larry Doby is one of those heroes. Only 11 weeks after Jackie Robinson first graced a major league diamond, Larry Doby of Paterson, NJ took the field with the Cleveland Indians, becoming the first African-American player in the American League. Once on the team, he brought an ability and level of consistency to the game that few could match. He was the first African-American player to hit a home run in the world series, and he was named to six straight American League all-star teams. During his 13 year career, he attained a .283 lifetime batting average and hit 253 home runs.

Mr. President, the day Larry Doby first took the field was definitely a great day for baseball enthusiasts. Millions of fans were able to enjoy the excitement he brought to the plate and the skill he brought to the field.

But it was also a great day for every American. Along with Robinson's earlier integration of the National League, Doby's joining the American League was a double play against racism and inequality. And in the early years it wasn't easy. Doby had to meet the challenges of the game, while also facing sometimes angry opponents. But whether he was faced with a curve ball hurled by an opposing pitcher, or a foul remark hurled by a bigoted fan, he handled it with dignity, grace, and skill.

Because of the manner in which he handled such adversity, he not only tore down the walls of exclusion, he also opened the windows of opportunity for many other African-American players, who followed him into the major leagues. Thanks to his example, we all learned that, in the words of Martin Luther King, ''We must judge a person on the content of his character, and not the color of his skin.''

Mr. President, Larry Doby is rightfully called a legend for his consistency on the field and a hero for his character off the field. But I have the privilege of also calling him a friend. We grew up together on the working class streets of Paterson. As a baseball fan, an American and a friend, I admire the contributions that Larry made to both the game of baseball and to the struggle for equality.

When it comes to Larry, others may have filled his uniform, but no one will ever be able to fill his shoes. Above all, Larry Doby proves that good and great can exist in the same individual.

Mr. President, I urge all my colleagues to join with Senator TORRICELLI and me in celebrating Larry Doby by gracing the post office located at 194 Ward Street in Paterson, NJ with his name.

By Mr. DODD (for himself and Mr. MCCAIN):

S.J. Res. 34. A joint resolution suspending the certification procedures under section 490(b) of the Foreign Assistance Act of 1991 in order to foster greater multilateral cooperation in international counternarcotics programs; to the Committee on Foreign Relations.

Mr. DODD. Mr. President, today I send to the desk a joint resolution on behalf of myself and Senator JOHN MCCAIN which we believe will lead to more cooperative and effective efforts to meet the international threat posed by international drug trafficking.

The resolution that we are introducing today calls upon the President to establish a high level, interdisciplinary task force under the direction of Gen. Barry R. McCaffrey, Director of the Office of National Drug Control Policy, to develop a comprehensive strategy for dealing with the supply and demand side of the drug problem.

It also urges the President to encourage other drug producing and transit countries to undertake similar efforts. Within a year's time it calls for an international summit to be held, at which time, the efforts of all the parties would be merged into a multilateral battle plan to engage the illegal drug trade on every front.

In order to create the kind of international cooperation and mutual respect that must be present if this effort is to produce results, the resolution would also suspend the annual drug certification procedure for a period of 2 years, while efforts are ongoing to develop and implement a new strategy.

As you know, Mr. President, the issue of how best to construct and implement an effective counter narcotics policy has been the subject of much debate in this Chamber, and I would add much disagreement.

My intention in introducing this resolution today is to try to see if there is some way to end what has become a stale annual event that has not brought us any closer to mounting a credible effort to eliminate or even contain the international drug mafia.

We all can agree that drugs are a problem—a big problem. We can agree as well that the international drug trade poses a direct threat to the United States and to international efforts to promote democracy, economic stability, human rights, and the rule of law throughout the world, but most especially in our own hemisphere.

While the international impact is serious and of great concern, of even greater concern to me personally are effects it is having here at home. Today, approximately 12,800,000 Americans use illegal drugs, including 1,500,000 cocaine users, 600,000 heroin addicts, and 9,800,000 smokers of marijuana. This menace isn't just confined to inner cities or the poor. Illegal drug use occurs among members of every ethnic and socioeconomic group in the United States.

The human and economic costs are enormous: Drug related illness, death, and crime cost the United States approximately $67 billion in 1996, including costs for lost productivity, premature death, and incarceration.

This is an enormously lucrative business—drug trafficking generates estimated revenues of $400 billion annually.

The United States has spent more than $25 billion for foreign interdictions and source country counter narcotics programs since 1981, and despite impressive seizures at the border, on the high seas, and in other countries, foreign drugs are cheaper and more readily available in the United States today than two decades ago.

So, despite the fact that we have had this drug certification procedure in place since 1986—more than 10 years—drugs continue to pour into this country and to wreak havoc on our families and communities.

I think it is time to be honest and admit our international drug strategy isn't working and that means the entire certification process. Nor are efforts to revise the certification process to make it easier, politically, for the U.S. Congress to stick a finger in the eye of other governments by unilaterally grading them, likely to materially improve the situation—especially when we are not prepared to subject ourselves to similar unilateral grading by others.

Rather, I believe that we need to reach out to other governments who share our concerns about the threat that drugs pose to the very fabric of their societies and our own. It is arrogant to assume we are the only Nation that cares about such matters. We need to sit down and figure out what each of us can do better to make it harder for drug traffickers to ply their trade. It is in that spirit that I commend the resolution that Senator MCCAIN and I are introducing today to our colleagues.

Together, working collectively we can defeat the traffickers. But if we expend our energies playing the blame game, we are certainly not going to effectively address this threat.

We aren't going to stop one additional teenager from becoming hooked on drugs, or one more citizen from being mugged outside his home by some drug crazed thief.

I would urge my colleagues to give some thought and attention to our legislative initiative. We believe it is worthy of support.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 34

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUSPENSION OF DRUG CERTIFICATION PROCEDURES.

(a) FINDINGS.—Congress makes the following findings:

(1) The international drug trade poses a direct threat to the United States and to international efforts to promote democracy, economic stability, human rights, and the rule of law.

(2) The United States has a vital national interest in combating the financial and other resources of the multinational drug cartels, which resources threaten the integrity of political and financial institutions both in the United States and abroad.

(3) Approximately 12,800,000 Americans use illegal drugs, including 1,500,000 cocaine users, 600,000 heroin addicts, and 9,800,000 marijuana users.

(4) Illegal drug use occurs among members of every ethnic and socioeconomic group in the United States.

(5) Drug-related illness, death, and crime cost the United States approximately $67,000,000,000 in 1996, including costs for lost productivity, premature death, and incarceration.

(6) Worldwide drug trafficking generates revenues estimated at $400,000,000,000 annually.

(7) The United States has spent more than $25,000,000,000 for drug interdiction and source country counternarcotics programs since 1981, and despite impressive seizures at the border, on the high seas, and in other countries, illegal drugs from foreign sources are cheaper and more readily available in the United States today than 20 years ago.

(8) The 1961 Single Convention on Narcotic Drugs, the 1971 Convention on Psychotropic Substances, and the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances form the legal framework for international drug control cooperation.

(9) The United Nations International Drug Control Program, the International Narcotics Control Board, and the Organization of American States can play important roles in facilitating the development and implementation of more effective multilateral programs to combat both domestic and international drug trafficking and consumption.

(10) The annual certification process required by section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j), which has been in effect since 1986, has failed to foster bilateral or multilateral cooperation with United States counternarcotics programs because its provisions are vague and inconsistently applied and fail to acknowledge that United States narcotics programs have not been fully effective in combating consumption or trafficking in illegal drugs, and related crimes, in the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) existing United States domestic and international counternarcotics program have not reduced the supply of illegal drugs or significantly reduced domestic consumption of such drugs;

(2) The President should appoint a high level task force of foreign policy experts, law enforcement officials, and drug specialists to develop a comprehensive program for addressing domestic and international drug trafficking and drug consumption and related crimes, with particular attention to fashioning a multilateral framework for improving international cooperation in combating illegal drug trafficking, and should designate the Director of the Office of National Drug Policy to chair the task force;

(3) the President should call upon the heads of state of major illicit drug producing countries, major drug transit countries, and major money laundering countries to establish similar high level task forces to work in coordination with the United States; and

(4) not later than one year after the date of enactment of this Act, the President should call for the convening of an international summit of all interested governments to be hosted by the Organization of American States or another international organization mutually agreed to by the parties, for the purpose of reviewing the findings and recommendations of the task forces referred to in paragraphs (1) and (2) and adopting a counternarcotics plan of action for each country.

(c) SUSPENSION OF DRUG CERTIFICATION PROCESS.—(1) Section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j), relating to annual certification procedures for assistance for certain drug-producing and drug-transit countries, shall not apply in 1998 and 1999.

(2) The President may waive the applicability of that section in 2000 if the President determines that the waiver would facilitate the enhancement of the United States international narcotics control programs.

Mr. MCCAIN. Mr. President, I join with my colleague and friend, Senator DODD, in introducing a joint resolution calling on the President to take concrete steps to increase the level of international cooperation in combating the flow of narcotics into this country, and to lead America toward coming to grips with the domestic demand that is tearing this country apart while enriching the drug cartels of Latin America and our own organized crime groups.

This legislation acknowledges the problems endemic in waging the war on drugs while domestic demand continues to remain high. It further recognizes the failure of numerous previous efforts at stemming the flow of illegal narcotics. It consequently expresses the sense of Congress that the President should appoint a high level task force, to be chaired by the Director of the Office of National Drug Policy, to establish a framework for improving international cooperation in these efforts. Finally, and of particular importance, it suspends for 2 years the process by which countries are certified as cooperating in the war on drug.

The drug problem in this country dates at least as far back as the Civil War, when wounded soldiers were turned into morphine addicts as the only way to deaden the horrific pain caused from battle and disease. The problem grew to such an extent that President Nixon felt compelled to establish the Drug Enforcement Administration in order to better coordinate the antidrug effort. President Reagan assigned Vice President Bush to oversee a major escalation in the war on drugs, a war carried on at considerable monetary cost throughout the Bush administration. President Clinton, to his credit, appointed perhaps our finest ''drug czar'' in Gen. Barry McCaffrey, who has waged the drug war as valiantly as he led troops in combat during Desert Storm.

And still, the flow of illegal narcotics continues virtually unimpeded. Record-breaking seizures serve mainly to remind us of how much more is getting through our porous borders undetected. Street prices alert us to the failure of our best efforts at putting a dent in the problem of drug trafficking. To the extent that one area, for example, cocaine, is tackled with any degree of success, another bigger problem—the resurgence of heroin abuse comes to mind—rises up in its place. Clearly, it is time to step back again and look more critically at every facet of the problem.

I do not believe ''chicken-and-egg'' debates about which problem, supply or demand, should take higher priority serve any useful purpose. The bill we are offering today addresses both problems. Nor I believe the certification process has accomplished its intended goal any more than such processes ever really do irrespective of the subject matter. In fact, the decision by the White House to decertify Colombia, which has waged a valiant and costly—in both lives and treasure—struggle against extremely powerful and ruthless cartels while recertifying Mexico, whose law enforcement agencies are so rife with corruption that that country's equivalent of General McCaffrey was arrested for drug-related crimes, illuminates all too well the impracticality of the current process.

It is easy to argue that the drug problem has been studied to death. It has not, however, been examined from the perspective, and at the level, recommended in this resolution. If I believed for a second that this resolution represented just another attempt at studying the problem of drugs, I would not have attached my name to it. The recommended steps, however, combined with the suspension of the drug certification process, constitute a real and meaningful effort at focusing the Nation's attention on one of our most serious problems. Drugs are, in every sense of the word, a scourge upon our society. We must take a comprehensive, sober look at the scale of the problem and what realistically can be done about it. We must do this domestically and internationally. We must, once and for all, wage the war on drugs as though we intend to prevail. I hope that my colleagues in the Senate and the House of Representatives will support this legislation.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. LOTT, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 224

At the request of Mr. WARNER, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 224, a bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employees Health Benefits Program, and for other purposes.

S. 260

At the request of Mr. ABRAHAM, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 260, a bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes.

S. 358

At the request of Mr. DEWINE, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 387

At the request of Mr. HATCH, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software.

S. 683

At the request of Mr. STEVENS, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 683, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Library of Congress.

S. 751

At the request of Mr. SHELBY, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 751, a bill to protect and enhance sportsmen's opportunities and conservation of wildlife, and for other purposes.

S. 863

At the request of Mr. MOYNIHAN, the names of the Senator from Ohio [Mr. DEWINE], the Senator from California [Mrs. FEINSTEIN], and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 863, a bill to authorize the Government of India to establish a memorial to honor Mahatma Gandhi in the District of Columbia.

S. 927

At the request of Ms. SNOWE, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Washington [Mr. GORTON], the Senator from Michigan [Mr. ABRAHAM], the Senator from Hawaii [Mr. INOUYE], the Senator from New York [Mr. MOYNIHAN], the Senator from Maine [Ms. COLLINS], the Senator from Florida [Mr. GRAHAM], the Senator from Virginia [Mr. WARNER], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors

of S. 927, a bill to reauthorize the Sea Grant Program.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

AMENDMENT NO. 532

At the request of Ms. LANDRIEU the names of the Senator from Massachusetts [Mr. KERRY], the Senator from South Dakota [Mr. JOHNSON], and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of amendment No. 532 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 537

At the request of Mr. THURMOND his name was added as a cosponsor of amendment No. 537 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 539

At the request of Mr. GRAMM the names of the Senator from Utah [Mr. HATCH] and the Senator from New Hampshire [Mr. GREGG] were added as cosponsors of amendment No. 539 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 551

At the request of Mr. NICKLES the names of the Senator from Nebraska [Mr. KERREY] and the Senator from Michigan [Mr. ABRAHAM] were added as cosponsors of amendment No. 551 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

At the request of Mr. KEMPTHORNE his name was added as a cosponsor of amendment No. 551 proposed to S. 949, supra.

At the request of Mr. CRAIG his name was added as a cosponsor of amendment No. 551 proposed to S. 949, supra.

AMENDMENT NO. 555

At the request of Mr. KERRY his name was added as a cosponsor of amendment No. 555 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

At the request of Mr. JEFFORDS the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from New York [Mr. D'AMATO], the Senator from Oregon [Mr. SMITH], the Senator from Utah [Mr. HATCH], the Senator from Colorado [Mr. CAMPBELL], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Wyoming [Mr. ENZI], the Senator from Colorado [Mr. ALLARD], the Senator from Alaska [Mr. STEVENS], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of amendment No. 555 proposed to S. 949, supra.

AMENDMENT NO. 562

At the request of Mr. BIDEN the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of amendment No. 562 proposed to S. 949, an original bill to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

SENATE CONCURRENT RESOLUTION 35 URGING ISSUANCE OF A POSTAGE STAMP TO COMMEMORATE THE 150TH ANNIVERSARY OF THE FIRST WOMEN'S RIGHT CONVENTION

Mr. MOYNIHAN (for himself and Mr. D'AMATO) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs.

S. CON. RES. 35

Whereas 1998 marks the 150th anniversary of the first Women's Rights Convention, which was held at the Wesleyan Methodist Church in Seneca Falls, New York, on July 19 and 20, 1848;

Whereas the Women's Rights Convention was called to consider ''the Social, Civil, and Religious Condition of Women'';

Whereas the Women's Rights Convention is considered by many historians to be one of the most important events in the history of the women's movement in the United States;

Whereas the Convention participants issued a Declaration of Sentiments which was modeled after the Declaration of Independence;

Whereas the Declaration of Sentiments further included a list of the ''injustices'' that were imposed on women over the centuries, such as denying them the right to participate in government, to retain their civil rights after marriage, to own property, to keep their wages, to vote, and to pursue a college education;

Whereas the Women's Rights Convention and the Declaration of Sentiments was a vital early step toward reversing such injustices;

Whereas the participants in the Women's Rights Convention also played a prominent role in the movement to abolish slavery;

Whereas commemorating this historic anniversary will highlight the importance of continuing the struggle for equal rights and opportunity for women in such areas as health care, education, employment, and pay equity;

Whereas Congress recently honored Lucretia Mott and Elizabeth Cady Stanton, the organizers of the Women's Rights Convention, along with Susan B. Anthony, as revolutionary leaders of the women's movement by placing a statue of them in the Capitol Rotunda with statues of other revolutionary leaders of our Nation's history such as George Washington, Abraham Lincoln, and Martin Luther King, Jr.;

Whereas a portion of this statue purposefully was left unfinished in 1921, the year following passage of the 19th Amendment, which gave women the right to vote, to signify the need to continue working for an Equal Rights Amendment, pay and pension equity, and other women's rights;

Whereas, in light of the fact that commemorative stamps have recently been issued to honor the marathon, the lunar new year, and football coaches, honoring a historic convention that led to many breakthroughs in the history of the women's rights movement is highly appropriate;

Whereas honoring the first Women's Rights Convention is educational, historically important, and of widespread national appeal;

Whereas stamp issuance and stamp collecting teach children about our Nation's history and our Nation's culture; and

Whereas in the history of the struggle for equality, the significance of this event is immeasurable: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) a postage stamp should be issued to commemorate the 150th anniversary of the first Women's Rights Convention; and

(2) the Citizen's Stamp Advisory Committee of the United States Postal Service should recommend to the Postmaster General that such a stamp be issued.

Mr. MOYNIHAN. Mr. President, I rise along with my friend and colleague, Senator D'AMATO, to submit a resolution that urges the United States Postal Service to issue a commemorative postage stamp to celebrate the 150th anniversary of the first Women's Rights Convention held in Seneca Falls, NY. In 1980 I introduced legislation to commemorate the idea of equal rights for women by creating the Women's Rights National Historic Park in Seneca Falls. That is where the Declaration of Sentiments was signed in 1848, stating that ''all men and women are created equal'' and that women should have equal political rights with men. From this beginning sprang the 19th amendment and many other advances for women this century and last.

Western New York was home to an emerging reform movement during the 1830's and 1840's. Among reformers settling in Seneca Falls were Quaker women such as Lucretia Mott who took an active role in the effort to end slavery. For Mott, Martha Wright, Mary Ann M'Clintock, and Elizabeth Cady Stanton, reform also included demanding rights for women. In July 1848, they planned the convention and hammered out a formal list of grievances based on the Declaration of Independence, denouncing inequities in property rights, education, employment, religion, marriage and family, and suffrage. On July 19, the Declaration of Sentiments was presented before an audience of 300.

The Women's Rights Convention and the Declaration of Sentiments were a vital early step toward reversing these injustices against women. Many historians consider the convention to be one of the most important events in the history of the women's movement in the United States.

The women of Seneca Falls challenged America to social revolution with a list of demands that touched upon every aspect of life. Testing different approaches, the early women's rights leaders came to view the ballot as the best way to challenge the system, but they did not limit their efforts to this one issue. Fifty years after

the convention, women could claim property rights, employment and educational opportunities, divorce and child custody laws, and increased social freedoms. By the early 20th century, a coalition of suffragists, temperance groups, reform-minded politicians, and women's social welfare organizations mustered a successful push for the vote.

Today Congress honors Lucretia Mott and Elizabeth Cady Stanton, along with Susan B. Anthony, as revolutionary leaders of the women's movement by placing a statue of them in the Capitol Rotunda next to statues of other leaders in our Nation's history such as George Washington, Abraham Lincoln, and Martin Luther King, Jr.

It is only fitting that a stamp be issued commemorating this historic anniversary highlighting the importance of continuing this struggle for equal rights and opportunity for women in areas such as health care, education, employment, and pay equity.

Mr. D'AMATO. Mr. President, I rise today with my friend and colleague, the senior Senator from New York, Senator MOYNIHAN, to submit concurrent resolution to commemorate the 150th anniversary of the first Women's Rights Convention through the issuance of a U.S. postage stamp.

American women in the middle part of the 19th century had few distinguishable rights. They did not possess the right to vote, participate in government and if married, were not allowed to own property or keep wages if they worked outside of the home. In the summer of 1848, a group of five women sought to change these circumstances.

On July 19 and 20, 1848, 300 women and men converged on Wesleyan Methodist Church in Seneca Falls, NY to consider ''the social, civil and religious condition of women'' at that time. Led by Elizabeth Cady Stanton, Lucretia Mott, Jane Hunt, Ann McClintock and Martha Wright, a Declaration of Sentiments was presented to the audience which listed among them ''all men and women are created equal'' and that ''women's political equality with man is the legitimate outgrowth of the fundamental principles of our government as set forth in the Declaration of Independence and the Constitution.''

This historic Convention marked a turning point in the condition of women in American society. The public airing of the Declaration of Sentiments began a progressive pursuit of equality for women that has endured to this day.

The issuance of this stamp will honor the courage that these early leaders had in presenting their convictions and pursuing change for all women. Through the issuance of a commemorative stamp, the commitment to women's rights will be celebrated. I encourage my colleagues to join Senator MOYNIHAN and me by cosponsoring this measure.

SENATE RESOLUTION—104—RELATIVE TO THE TAX STATUS OF PAYMENTS IN THE TOBACCO LIABILITY SETTLEMENT

Mr. HARKIN (for himself, Mr. LAUTENBERG, and Mr. KENNEDY) submitted the following resolution, which was referred to the Committee on Finance:

S. RES. 104

Resolved,

Whereas the tobacco industry, State attorneys general, and individual plaintiffs' attorneys have reached an agreement to settle tobacco litigation in 40 States and the tobacco industry has agreed to pay $368.5 billion over 25 years, most of which would go to States;

Whereas under the terms of this agreement, this payment will be counted as a ''normal and necessary'' business expense and will therefore be considered tax deductible for Federal tax purposes, potentially requiring American taxpayers to subsidize up to $147 billion of the settlement payment; and

Whereas while many of the details of the agreement will require further examination and possible alteration, the United States Senate should go on record stating its concern about this provision's potential impact on federal revenues and the deficit: Therefore be it

Resolved, It is the sense of the Senate that to protect the interests of the American taxpayer, any legislation implementing the tobacco liability settlement shall prohibit parties to the agreement from claiming Federal tax deductions for these payments.

SENATE RESOLUTION 105—RELATIVE TO HONG KONG

Mr. LOTT (for himself, Mr. LIEBERMAN, Mr. MURKOWSKI, Mr. HELMS, Mr. COVERDELL, Mr. MCCONNELL, Mr. ROBB, Mr. THURMOND, Mr. MCCAIN, Mr. NICKLES, Mr. ROTH, Mrs. FEINSTEIN, and Mr. CRAIG) submitted the following resolution; which was considered and agreed to:

S. RES. 105

Whereas at one minute past midnight on July 1, 1997, Hong Kong will cease to be a colonial possession of Great Britain and will return to Chinese sovereignty;

Whereas the people of Hong Kong enjoy civil liberties and political freedoms based on the democratic rule of law and the functions of a free market;

Whereas the People's Republic of china has promised through international agreements and Chinese law to preserve Hong Kong's way of life and to grant the people of Hong Kong substantial autonomy in self-government;

Whereas the United States is committed through the Hong Kong Policy Act of 1992 to monitoring, advocating and reporting on the continuation of Hong Kong's freedoms under Chinese rule; and

Whereas the United States enjoys a longstanding commercial, cultural, and political relationship with Hong Kong and a developing relationship with the People's Republic of China: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the people of the United States wish good fortune to the people of Hong Kong as they embark on their historic transition of sovereignty;

(2) the United States urges the People's Republic of China to honor both the spirit and the letter of its commitments to accord Hong Kong substantial autonomy as a separate administrative region in a China characterized as ''one country, two systems;''

(3) the executive branch should exercise due diligence in enforcing the terms and conditions of the Hong Kong Policy Act of 1992 and subsequent acts and provisions concerning the protection of civil liberties and the rule of law in Hong Kong;

(4) the United States looks forward to continuing its close, productive relationship with the people of Hong Kong; and

(5) the United States hopes to develop a positive, productive relationship with the People's Republic of china based upon shared respect for human dignity and responsible behavior in the international community of nations.

AMENDMENTS SUBMITTED

THE REVENUE RECONCILIATION ACT OF 1997

GRAMM AMENDMENT NO. 566

Mr. GRAMM proposed an amendment to the bill (S. 949) to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998; from the Committee on Finance; as follows:

At the appropriate place, add the following:

SEC. . GUARANTEED BALANCED BUDGET.

(a) MAXIMUM DEFICIT AMOUNT.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (b), in the last sentence by striking the period and inserting ''and $10,000,000,000 for fiscal years 1998 and thereafter.''; and

(2) by striking subsections (g) and (h) and inserting the following:

''(g) MAXIMUM DEFICIT AMOUNT.—In this section—

''(1) Notwithstanding any provision of this * * * the term 'deficit' shall have the same meaning as the term 'deficit' in section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 as on the day before the date of enactment of the Budget Enforcement Act of 1990; and

''(2) the term 'maximum deficit amount' means—

''(A) with respect to fiscal year 1998, $90,500,000,000;

''(B) with respect to fiscal year 1999, $89,500,000,000;

''(C) with respect to fiscal year 2000, $82,900,000,000;

''(D) with respect to fiscal year 2001, $53,100,000,000;

''(E) with respect to fiscal year 2002 and fiscal years thereafter, zero.''.

(b) LOOK-BACK SEQUESTER.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following new subsection:

''(h) LOOK-BACK SEQUESTER—

''(1) IN GENERAL.—On July 1 of each fiscal year, the Director of OMB shall determine if laws effective during the current fiscal year will cause the deficit to exceed the maximum deficit amount for such fiscal year. If the limit is exceeded, there shall be a preliminary sequester on July 1 to eliminate the excess.

''(2) PERMANENT SEQUESTER.—Budget authority sequestered on July 1 pursuant to paragraph (1) shall be permanently canceled on July 15.

''(3) NO MARGIN.—The margin for determining a sequester under this subsection shall be zero.

''(4) SEQUESTRATION PROCEDURES.—The provision of subsections (c), (d), and (e) of this section shall apply to a sequester under this subsection.''.

(c) OFFSETTING TAX CUTS WITH CUTS IN DISCRETIONARY SPENDING.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

''(f) OFFSETS WITH DISCRETIONARY SPENDING.—For purposes of subsection (b), revenue reductions increasing the deficit may be offset by reductions in discretionary appropriated amounts reducing the deficit.''.

(d) ADJUSTMENT OF DISCRETIONARY SPENDING LEVELS FOR TAX CUTS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

''(I) TAX RELIEF ADJUSTMENTS.—If, for any fiscal year or years, appropriations for discretionary appropriations are reduced that Congress and the President designate in statute as offsets for tax relief, the adjustments shall be the total amount of such reductions in appropriations in discretionary accounts and the outlays flowing in all years from such reductions.''

(e) Notwithstanding any provision in this or any other Act, section 253 of the Balanced Budget and Emergency Deficit Control Act is extended through fiscal year 2002.

JEFFORDS AMENDMENT NO. 567

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, S. 949, supra; as follows:

On page 164, in the matter between lines 16 and 17, insert after the item relating to section 1400B the following:

''Sec. 1400C. Trust Fund for DC schools.''

On page 173, line 10, strike ''$75,000,000'' and insert ''$60,000,000''.

On page 174, strike lines 21 through 23, and insert:

''(a) EXCLUSION.—

''(1) IN GENERAL.—Gross income shall not include qualified capital gain from the sale or exchange of any DC asset held for more than 5 years.

''(2) SPECIAL 10 PERCENT RATE FOR DC ASSETS ACQUIRED IN 1998.—

''(A) IN GENERAL.—In the case of any DC asset acquired during calendar year 1998—

''(i) paragraph (1) shall not apply to any qualified capital gain from the sale or exchange of such asset, and

''(ii) the qualified capital gain described in clause (i) shall be treated as adjusted net capital gain described in section 1(h)(1)(D) for the taxable year of the sale or exchange (and the amount under section 1(h)(1)(D)(i) for such taxable year shall be increased by the amount of such gain).

''(B) SPECIAL RULE.—For purposes of subparagraph (A), any DC asset the basis of which is determined in whole or in part by reference to the basis of an asset to which subparagraph (A) applies shall be treated as a DC asset acquired during calendar year 1998.

On page 181, between lines 5 and 6, insert the following:

''SEC. 1400C. TRUST FUND FOR DC SCHOOLS.

''(a) CREATION OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for DC Schools', consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

''(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

''(1) IN GENERAL.—There are hereby appropriated to the Trust Fund for DC Schools amounts equivalent to the applicable percentage of revenues received in the Treasury from income taxes imposed by this chapter for any taxable year beginning after December 31, 1997, and before January 1, 2008, on individual taxpayers who are residents of the District of Columbia as of the last day of such taxable year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage which the Secretary determines necessary to result in the following amounts being appropriated to the Trust Fund under paragraph (1):

''(A) $5,000,000 for each of the calendar years 1998 through 2007.

''(3) TRANSFER OF AMOUNTS.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund for DC Schools on the basis of estimates made by the Secretary of the amounts referred to in such paragraph. 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 Trust Fund for DC Schools are hereby appropriated, and shall be available without fiscal year limitation, for payment by the Secretary of debt service on qualified DC school bonds.

''(2) QUALIFIED DC SCHOOL BONDS.—The term 'qualified DC school bonds' means bonds which—

''(A) are issued after March 31, 1998, by the District of Columbia to finance the construction, rehabilitation, and repair of schools under the jurisdiction of the government of the District of Columbia, and

''(B) are certified by the District of Columbia Control Board as meeting the requirements of subparagraph (A) after giving 60 days notice of any proposed certification to the Subcommittees on the District of Columbia of the Committees on Appropriations of the House of Representatives and the Senate.

''(d) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund for DC Schools and to report to the Congress each year on the financial condition and the results of the operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

''(e) INVESTMENT.—

''(1) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund for DC Schools as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

''(A) on original issue at the issue price, or

''(B) by purchase of outstanding obligations at the market price.

''(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund for DC Schools may be sold by the Secretary at the market price.

''(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund for DC Schools shall be credited to and form a part of the Trust Fund for DC Schools.''

BUMPERS AMENDMENT NO. 568

Mr. BUMPERS proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place add the following:

''(f) BUDGETARY TREATMENT OF SALES OF CERTAIN FEDERAL LANDS.—The amounts realized from the sale or lease of lands or interests in lands which are part of the National Park System, the Forest Service System or the U.S. Fish and Wildlife refuge system shall not be scored with respect to the level of budget authority, outlays, or revenues.''

CRAIG AMENDMENT NO. 569

Mr. CRAIG proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place insert the following:

SEC. . RESTRICTION ON THE USE OF TAX INCREASES.

(a) IN GENERAL.—In the Senate, for purposes of section 202 of House Concurrent Resolution 67 (104th Congress), it shall not be in order to consider any bill, joint resolution, amendment, motion, or conference report that provides an increase in direct spending offset by an increase in receipts.

(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the concurrent resolution, bill, or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of direct spending and receipts for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

BROWNBACK (AND OTHERS) AMENDMENT NO. 570

Mr. BROWNBACK (for himself, Mr. KOHL, and Mr. MCCAIN) proposed an amendment to the bill, S. 949, supra; as follows:

At the end of the bill, add the following:

TITLE ____—BUDGET CONTROL

SEC. ___01. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the ''Bipartisan Budget Enforcement Act of 1997''.

(b) PURPOSE.—The purpose of this title is—

(1) to ensure a balanced Federal budget by fiscal year 2002;

(2) to ensure that the Bipartisan Budget Agreement is implemented; and

(3) to create a mechanism to monitor total costs of direct spending programs, and, in the event that actual or projected costs exceed targeted levels, to require the President and Congress to address adjustments in direct spending.

SEC. ___02. ESTABLISHMENT OF DIRECT SPENDING TARGETS.

(a) IN GENERAL.—The initial direct spending targets for each of fiscal years 1998 through 2002 shall equal total outlays for all direct spending except net interest as determined by the Director of the Office of Management and Budget (hereinafter referred to in this title as the ''Director'') under subsection (b).

(b) INITIAL REPORT BY DIRECTOR.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this title, the Director shall submit a report to Congress

setting forth projected direct spending targets for each of fiscal years 1998 through 2002.

(2) PROJECTIONS AND ASSUMPTIONS.—The Director's projections shall be based on legislation enacted as of 5 days before the report is submitted under paragraph (1). The Director shall use the same economic and technical assumptions used in preparing the concurrent resolution on the budget for fiscal year 1998 (H.Con.Res. 84).

SEC. ___03. ANNUAL REVIEW OF DIRECT SPENDING AND RECEIPTS BY PRESIDENT.

As part of each budget submitted under section 1105(a) of title 31, United States Code, the President shall provide an annual review of direct spending and receipts, which shall include—

(1) information on total outlays for programs covered by the direct spending targets, including actual outlays for the prior fiscal year and projected outlays for the current fiscal year and the 5 succeeding fiscal years; and

(2) information on the major categories of Federal receipts, including a comparison between the levels of those receipts and the levels projected as of the date of enactment of this title.

SEC. ___04. SPECIAL DIRECT SPENDING MESSAGE BY PRESIDENT.

(a) TRIGGER.—If the information submitted by the President under section ___03 indicates—

(1) that actual outlays for direct spending in the prior fiscal year exceeded the applicable direct spending target; or

(2) that outlays for direct spending for the current or budget year are projected to exceed the applicable direct spending targets,

the President shall include in his budget a special direct spending message meeting the requirements of subsection (b).

(b) CONTENTS.—

(1) INCLUSIONS.—The special direct spending message shall include—

(A) an analysis of the variance in direct spending over the direct spending targets; and

(B) the President's recommendations for addressing the direct spending overages, if any, in the prior, current, or budget year.

(2) ADDITIONAL MATTERS.—The President's recommendations may consist of any of the following:

(A) Proposed legislative changes to recoup or eliminate the overage for the prior, current, and budget years in the current year, the budget year, and the 4 outyears.

(B) Proposed legislative changes to recoup or eliminate part of the overage for the prior, current, and budget year in the current year, the budget year, and the 4 outyears, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, only some of the overage should be recouped or eliminated by outlay reductions or revenue increases, or both.

(C) A proposal to make no legislative changes to recoup or eliminate any overage, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, no legislative changes are warranted.

(c) PROPOSED SPECIAL DIRECT SPENDING RESOLUTION.—If the President recommends reductions consistent with subsection (b)(2)(A) or (B), the special direct spending message shall include the text of a special direct spending resolution implementing the President's recommendations through reconciliation directives instructing the appropriate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions. If the President recommends no reductions pursuant to (b)(2)(C), the special direct spending message shall include the text of a special resolution concurring in the President's recommendation of no legislative action.

SEC. ___05. REQUIRED RESPONSE BY CONGRESS.

(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget unless that concurrent resolution fully addresses the entirety of any overage contained in the applicable report of the President under section ___04 through reconciliation directives.

(b) WAIVER AND SUSPENSION.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. This section shall be subject to the provisions of section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SEC. ___06. RELATIONSHIP TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT.

Reductions in outlays or increases in receipts resulting from legislation reported pursuant to section ___05 shall not be taken into account for purposes of any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. ___07. ESTIMATING MARGIN.

For any fiscal year for which the overage is less than one-half of 1 percent of the direct spending target for that year, the procedures set forth in sections ___04 and ___05 shall not apply.

SEC. ___08. EFFECTIVE DATE.

This title shall apply to direct spending targets for fiscal years 1998 through 2002 and shall expire at the end of fiscal year 2002.

FRIST (AND OTHERS) AMENDMENT NO. 571

Mr. FRIST (for himself, Mr. CONRAD, Mr. ABRAHAM, Mr. SESSIONS, and Mr. ROBB) proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place, add the following:

SEC. . ENFORCEMENT OF BALANCED BUDGET.

(a) IN THE SENATE.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''ENFORCEMENT BALANCED BUDGET IN THE SENATE

''SEC. 315. (a) POINT OF ORDER.—It shall not be in order in the Senate to consider any resolution or bill (or amendment, motion, or conference report on such resolution or bill) that provides or would cause a deficit (as determined for purposes of the Bipartisan Budget Agreement of May 16, 1997) for fiscal year 2002 or any fiscal year thereafter.

''(b) WAIVER AND SUSPENSION.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. This section shall be subject to the provisions of section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985.

''(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

''(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.''.

(b) PRESIDENT'S BUDGET.—Section 1105(f) of title 31, United States Code, is amended by adding at the end the following: ''The budget shall also be prepared in a manner that does not cause a deficit for fiscal year 2002 or any fiscal year thereafter.''.

BYRD AMENDMENT NO. 572

Mr. BYRD proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place, insert the following:

SEC. . DEBATE ON A RECONCILIATION BILL.

Section 310(e)(2) of the Congressional Budget Act of 1974 is amended to read as follows:

''(2) For purposes of consideration of any reconciliation bill reported under subsection (b)—

''(A) debate, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 30 hours;

''(B) time on the bill may only be yielded back by consent and a motion to further limit debate shall be debatable with debate limited to ½ hour equally divided;

''(C) time on amendments shall be limited to 30 minutes to be equally divided in the usual form and on any second degree amendment or motion to 20 minutes to be equally divided in the usual form; except that after the 15th hour of consideration of a bill, time on all amendments or motions shall be limited to 30 minutes.

''(D) no first degree amendment may be proposed after the 15th hour of consideration of a bill unless it has been submitted to the Journal Clerk prior to the expiration of the 15th hour;

''(E) no second degree amendment may be proposed after the 20th hour of consideration of a bill unless it has been submitted to the Journal Clerk prior to the expiration of the 20th hour; and

''(F) After no more than thirty hours of consideration of the measure, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins.''

KENNEDY (AND DASCHLE) AMENDMENT NO. 573

Mr. KENNEDY (for himself and Mr. DASCHLE) proposed an amendment to the bill, S. 949, supra; as follows:

On page 337, beginning with line 14, strike all through page 339, line 15, and insert the following.

(a) CIGARETTES.— Section 5701(b) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by striking ''$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)'' and inserting ''$33.50 per thousand'', and

(2) in paragraph (2), by striking ''$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)'' and inserting ''$70.35 per thousand''.

(b) CIGARS.—Section 5701(a) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by striking ''$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)'' and inserting ''$3.141 cents per thousand'', and

(2) by striking ''equal to'' and all that follows in paragraph (2) and inserting ''equal to 35.59 percent of the price for which sold but not more than $83.75 per thousand.''

(c) CIGARETTE PAPERS.—Section 5701(c) of the Internal Revenue Code of 1986 is amended by striking ''0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)'' and inserting ''2.09 cents''.

(d) CIGARETTE TUBES.—Section 5701(d) of the Internal Revenue Code of 1986 is amended by striking ''1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)'' and inserting ''4.18 cents''.

(e) SMOKELESS TOBACCO.—Section 5701(e) of the Internal Revenue code of 1986 is amended—

(1) in paragraph (1), by striking ''36 cents (30 cents on snuff removed during 1991 or 1992)'' and inserting ''$1.00'', and

(2) by striking ''12 cents (10 cents on chewing tobacco removed during 1991 or 1992)'' in paragraph (2) and inserting ''33.5 cents''.

(f) PIPE TOBACCO.—Section 5701(f) of the Internal Revenue Code of 1986 is amended by striking ''67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)'' and inserting ''$1.88''.

(g) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5701 (relating to rate of tax) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection.

''(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of $1.74 cents per pound (and a proportionate tax at the like rate on all fractional parts of a pound).''

On page 349, between lines 2 and 3, insert the following:

''(k) APPROPRIATION OF PORTION OF RESULTING REVENUES FROM INCREASE IN TAXES ON TOBACCO PRODUCTS TO CHILDREN'S HEALTH INSURANCE INITIATIVES.—In addition to any amounts otherwise appropriated for the purpose of carrying out title XXI of the Social Security Act (relating to children's health insurance initiatives), there is appropriated from the increase in revenues resulting from the amendments made by this section $2,400,000,000 for each of the fiscal years 1998 through 2002.''.

COVERDELL (AND OTHERS) AMENDMENT NO. 574

Mr. COVERDELL (for himself, Mr. ABRAHAM, Mr. COATS, Mr. CRAIG, Mr. SANTORUM, and Mr. ASHCROFT) proposed an amendment to the bill, S. 949, supra, as follows:

On page 19, between lines 14 and 15, insert:

''(D) ADJUSTMENT.—The Secretary shall reduce the dollar amounts otherwise in effect under this paragraph for any calendar year to the extent necessary to increase Federal revenues by the amount the Secretary estimates Federal revenues will be reduced by reason of allowing distributions from education individual retirement accounts under section 530 to be used for qualified elementary and secondary education expenses described in section 530(b)(2)(A)(ii).''

On line 64, beginning with line 8, strike all through page 67, line 15, and insert:

''(1) EDUCATION INDIVIDUAL RETIREMENT ACCOUNT.—The term 'education individual retirement account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified education expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

''(A) No contribution will be accepted—

''(i) unless it is in cash,

''(ii) after the date on which the account holder attains age 18, or

''(iii) except in the case of rollover contributions, if such contribution would result in aggregate contributions for the taxable year exceeding the sum of—

''(I) $2,000, plus

''(II) the amount of the credit allowable under section 25A for the taxable year for 1 qualifying child.

''(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

''(C) No part of the trust assets will be invested in life insurance contracts.

''(D) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

''(E) Upon the death of the account holder, any balance in the account will be distributed as required under section 529(b)(8) (as if such account were a qualified tuition program).

''(F) The account becomes an IRA Plus as of the date the account holder attains age 30 (and meets all requirements for an IRA Plus on and after such date), unless the account holder elects to have sections 529(b)(8) apply as of such date (as if such account were a qualified tuition program).

''(2) QUALIFIED EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified education expenses' means—

''(i) qualified higher education expenses (as defined in section 529(e)(3), and

''(ii) in the case of taxable years beginning after December 31, 2000, qualified elementary and secondary education expenses (as defined in paragraph (5)).

''(B) QUALIFIED TUITION PROGRAMS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified tuition program (as defined in section 529(b)) for the benefit of the account holder.

''(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' has the meaning given such term by section 529(e)(5).

''(4) ACCOUNT HOLDER.—The term 'account holder' means the individual for whose benefit the education individual retirement account is established.

''(5) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means tuition, fees, tutoring, special needs services, books, supplies, equipment, transportation, and supplementary expenses required for the enrollment or attendance at a public, private, or sectarian school of any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151.

''(B) SPECIAL RULE FOR HOMESCHOOLING.—Scuh term shall include expenses described in subparagraph (A) required for education provided for homeschooling if the requirements of any applicable State or local law are met with respect to such education.

''(C) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (through grade 12), as determined under State law.

''(c) TAX TREATMENT OF DISTRIBUTIONS.—

''(1) IN GENERAL.—Any amount paid or distributed shall be includible in gross income to the extent required by section 529(c)(3) (determined as if such account were a qualified tuition program and as if qualified higher education expenses include qualified education expenses).

''(2) SPECIAL RULES FOR APPLYING ESTATE AND GIFT TAXES WITH RESPECT TO ACCOUNT.—Rules similar to the rules of paragraphs (2), (4), and (5) of section 529(c) shall apply for purposes of this section.

''(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR EDUCATIONAL EXPENSES.—

''(A) IN GENERAL.—The tax imposed by section 529(f) shall apply to payments and distributions from an education individual retirement account in the same manner as such tax applies to qualified tuition programs (as defined in section 529), except that section 529(f) shall be applied by reference by qualified education expenses.

KOHL (AND OTHERS) AMENDMENT NO. 575

Mr. KOHL (for himself, Mr. HATCH, Mr. DASCHLE, Mr. D'AMATO, Ms. MOSELEY-BRAUN, Mr. ABRAHAM, Mr. SPECTER, Ms. SNOWE, Mrs. BOXER, Mr. DEWINE, Mrs. MURRAY, and Mr. JOHNSON) proposed an amendment to the bill, S. 949, supra; as follows:

On page 20, between lines 5 and 6, insert:

SEC. 103. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified child care expenditures of the taxpayer for such taxable year.

''(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CHILD CARE EXPENDITURE.—The term 'qualified child care expenditure' means any amount paid or incurred—

''(A) to acquire, construct, rehabilitate, or expand property—

''(i) which is to be used as part of a qualified child care facility of the taxpayer,

''(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

''(iii) which does not constitute part of the principal residence (within the meaning of section 1034) of the taxpayer or any employee of the taxpayer,

''(B) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

''(C) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

''(D) under a contract to provide child care resource and referral services to employees of the taxpayer, or

''(E) for the costs of seeking accreditation from a child care credentialing or accreditation entity.

''(2) QUALIFIED CHILD CARE FACILITY.—

''(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

''(i) the principal use of which is to provide child care assistance, and

''(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 1034) of the operator of the facility.

''(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

''(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

''(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

''(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

''(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

''(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

''(A) the applicable recapture percentage, and

''(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

''(2) APPLICABLE RECAPTURE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	The applicable recapture percentage is:
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

''(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

''(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

''(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

''(B) CHANGE IN OWNERSHIP.—

''(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

''(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

''(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

''(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

''(f) NO DOUBLE BENEFIT.—

''(1) REDUCTION IN BASIS.—For purposes of this subtitle—

''(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

''(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

''(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

''(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1999.''

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended—

(A) by striking out ''plus'' at the end of paragraph (11),

(B) by striking out the period at the end of paragraph (12), and inserting a comma and ''plus'', and

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

''(13) the employer-provided child care credit determined under section 45D.''

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45D. Employer-provided child care credit.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 104. EXPANSION OF COORDINATED ENFORCEMENT EFFORTS OF INTERNAL REVENUE SERVICE AND HHS OFFICE OF CHILD SUPPORT ENFORCEMENT.

(a) STATE REPORTING OF CUSTODIAL DATA.—Section 454A(e)(4)(D) of the Social Security Act (42 U.S.C. 654(e)(4)(D)) is amended by striking ''the birth date of any child'' and inserting ''the birth date and custodial status of any child''.

(b) MATCHING PROGRAM BY IRS OF CUSTODIAL DATA AND TAX STATUS INFORMATION.—

(1) NATIONAL DIRECTORY OF NEW HIRES.—Section 453(i)(3) of the Social Security Act (42 U.S.C. 653(i)(3)) is amended by striking ''a claim with respect to employment in a tax return'' and inserting ''information which is required on a tax return''.

(2) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—Section 453(h) of the such Act (42 U.S.C. 653(h)) is amended by adding at the end the following:

''(3) ADMINISTRATION OF FEDERAL TAX LAWS.—The Secretary of the Treasury shall have access to the information described in paragraph (2), consisting of the names and social security numbers of the custodial parents linked with the children in the custody of such parents, for the purpose of administering those sections of the Internal Revenue Code of 1986 which grant tax benefits based on support and residence provided dependent children.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

GRAHAM AMENDMENT NO. 576

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill, S. 949, supra; as follows:

On page 93, strike lines 13 through 25, and insert:

''(ii) a silver coin described in section 5112(e) of title 31, United States Code,

''(iii) a platinum coin described in section 5112(k) of title 31, United States Code, or

''(iv) a coin issued under the laws of any State, or

''(B) any gold, silver, platinum, or palladium bullion of a fineness equal to or exceeding the minimum fineness required for metals which may be delivered in satisfaction of a regulated futures contract subject to regulation by the Commodity Futures Trading Commission under the Commodity Exchange Act,''.

On page 205, before line 12, insert the following:

(c) SPECIAL AMORTIZATION RULE.—

(1) CODE AMENDMENT.—Section 412(b)(2) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by inserting after subparagraph (D) the following:

''(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I).''.

(2) ERISA AMENDMENT.—Section 302(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)(2)) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by inserting after subparagraph (D) the following:

''(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made

under the plan but for the provisions of subsection (c)(7)(A)(i)(I).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 412(c)(7)(D) is amended by adding ''and'' at the end of clause (i), by striking '', and'' at the end of clause (ii) and inserting a period, and by striking clause (iii).

(B) Section 302(c)(7)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)(D)) is amended by adding ''and'' at the end of clause (i), by striking '', and'' at the end of clause (ii) and inserting a period, and by striking clause (iii).

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1998.

(B) SPECIAL RULE FOR 1999.—In the case of a plan's first year beginning in 1999, there shall be added to the amount required to be amortized under section 412(b)(2)(E) of the Internal Revenue Code of 1986 and section 302(b)(2)(E) of the Employee Retirement Income Security Act of 1974 (as added by paragraphs (1) and (2)) over the 20-year period beginning with such year, the unamortized balance (as of the close of the preceding plan year) of any amount required to be amortized under section 412(c)(7)(D)(iii) of such Code and section 302(c)(7)(D)(iii) of such Act (as repealed by paragraph (3)) for plan years beginning before 1999.

On page 639, between lines 11 and 12, insert:

(4) AMENDMENTS RELATED TO SECTION 1461.—

(A) Section 415(e)(5)(A) is amended to read as follows:

''(A) CERTAIN MINISTERS MAY PARTICIPATE.—For purposes of this part—

''(i) IN GENERAL.—A duly ordained, commissioned, or licensed minister of a church is described in paragraph (3)(B) if, in connection with the exercise of their ministry, the minister—

''(I) is a self-employed individual (within the meaning of section 401(c)(1)(B), or

''(II) is employed by an organization other than an organization which is described in section 501(c)(3) and with respect to which the minister shares common religious bonds.

''(ii) TREATMENT AS EMPLOYER AND EMPLOYEE.—For purposes of sections 403(b)(1)(A) and 404(a)(10), a minister described in clause (i)(I) shall be treated as employed by the minister's own employer which is an organization described in section 501(c)(3) and exempt from tax under section 501(a).''

(B) Section 403(b)(1)(A) is amended by striking ''or'' at the end of clause (i), by inserting ''or'' at the end of clause (ii), and by adding at the end the following new clause:

''(iii) for the minister described in section 415(e)(5)(A) by the minister or by an employer,''.

ALLARD AMENDMENT NO. 577

Mr. ALLARD proposed an amendment to the bill, S. 949, supra; as follows:

Beginning on page 94, line 8, strike all through page 101, line 16, and insert the following:

SEC. 311. 20-PERCENT MAXIMUM CAPITAL GAINS RATE FOR INDIVIDUALS AND INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 2000, FOR PURPOSES OF DETERMINING GAIN.

(a) IN GENERAL.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

''(h) MAXIMUM CAPITAL GAINS RATE.—

''(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

''(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

''(i) taxable income reduced by the net capital gain, or

''(ii) the amount of taxable income taxed at a rate below 28 percent, plus

''(B) 24 percent of the lesser of—

''(i) the unrecaptured section 1250 gain, or

''(ii) the amount of taxable income in excess of the sum of the amount on which tax is determined under subparagraph (A) plus the net capital gain determined without regard to unrecaptured section 1250 gain, plus

''(C) 28 percent of the amount of taxable income in excess of the sum of—

''(i) the adjusted net capital gain, plus

''(ii) the sum of the amounts on which tax is determined under subparagraphs (A) and (B), plus

''(D) 10 percent of so much of the taxpayer's adjusted net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of—

''(i) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate of 15 percent or less, over

''(ii) the taxable income reduced by the adjusted net capital gain, plus

''(E) 20 percent of the taxpayer's adjusted net capital gain (or, if less, taxable income) in excess of the amount on which a tax is determined under subparagraph (D).

''(2) NET CAPITAL GAIN TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

''(3) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection, the term 'adjusted net capital gain' means net capital gain determined without regard to—

''(A) collectibles gain, and

''(B) unrecaptured section 1250 gain.

''(4) COLLECTIBLES GAIN.—For purposes of paragraph (3)—

''(A) IN GENERAL.—The term 'collectibles gain' means gain from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 1 year but only to the extent such gain is taken into account in computing gross income.

''(B) PARTNERSHIPS, ETC.—For purposes of subparagraph (A), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

''(C) COORDINATION WITH SECTION 1022.—Gain from the disposition of a collectible which is an indexed asset to which section 1022(a) applies shall be disregarded for purposes of this subsection. A taxpayer may elect to treat any collectible specified in such election as not being an indexed asset for purposes of section 1022. Any such election, and any specification therein, once made, shall be irrevocable.

''(5) UNRECAPTURED SECTION 1250 GAIN.—For purposes of this subsection, the term 'unrecaptured section 1250 gain' means the excess (if any) of—

''(A) the amount which would be treated as ordinary income under section 1245 if all section 1250 property disposed of by the taxpayer were section 1245 property, over

''(B) the amount treated as ordinary income under section 1250.

In the case of a taxable year which includes May 7, 1997, unrecaptured section 1250 gain shall be determined by taking into account only the gain properly taken into account for the portion of the taxable year after May 6, 1997.

''(6) PRE-EFFECTIVE DATE GAIN.—

''(A) IN GENERAL.—In the case of a taxable year which includes May 7, 1997, adjusted net capital gain shall be determined without regard to pre-May 7, 1997, gain.

''(B) PRE-MAY 7, 1997, GAIN.—The term 'pre-May 7, 1997, gain' means the amount which would be adjusted net capital gain for the taxable year if adjusted net capital gain were determined by taking into account only the gain or loss properly taken into account for the portion of the taxable year before May 7, 1997.

''(C) SPECIAL RULES FOR PASS-THRU ENTITIES.—In applying subparagraph (A) with respect to any pass-thru entity, the determination of when gains and loss are properly taken into account shall be made at the entity level.

''(D) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (C), the term 'pass-thru entity' means—

''(i) a regulated investment company,

''(ii) a real estate investment trust,

''(iii) an S corporation,

''(iv) a partnership,

''(v) an estate or trust, and

''(vi) a common trust fund.''

(b) MINIMUM TAX.—

(1) IN GENERAL.—Subsection (b) of section 55 is amended by adding at the end the following new paragraph:

''(3) MAXIMUM RATE OF TAX ON NET CAPITAL GAIN OF NONCORPORATE TAXPAYERS.—The amount determined under the first sentence of paragraph (1)(A)(i) shall not exceed the sum of—

''(A) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been enacted on the taxable excess reduced by the excess of the net capital gain over the sum of the collectibles gain (as defined in section 1(h)(4)) and the pre-effective date gain (as defined in section 1(h)(6)), plus

''(B) 24 percent of the lesser of—

''(i) the unrecaptured section 1250 gain (as defined in section 1(h)(5)), or

''(ii) the amount of taxable excess in excess of the sum of—

''(I) the adjusted net capital gain, plus

''(II) the amount on which a tax is determined under subparagraph (A), plus

''(C) 10 percent of so much of the taxpayer's adjusted net capital gain (or, if less, taxable excess) as does not exceed the amount on which a tax is determined under section 1(h)(1)(B), plus

''(D) 20 percent of the taxpayer's adjusted net capital gain (or, if less, taxable excess) in excess of the amount on which tax is determined under subparagraph (C).''

(2) CONFORMING AMENDMENT.—Clause (ii) of section 55(b)(1)(A) is amended by striking ''clause (i)'' and inserting ''this subsection''.

(c) OTHER CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 291 is amended by inserting at the end the following new sentence: ''Any capital gain dividend treated as having been paid out of such difference to a shareholder which is not a corporation retains its characters as unrecaptured section 1250 gain for purposes of applying section 1(h) to such shareholder.''

(2) Paragraph (1) of section 1445(e) is amended by striking ''28 percent'' and inserting ''20 percent''.

(3) The second sentence of section 7518(g)(6)(A), and the second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936, are each amended by striking ''28 percent'' and inserting ''20 percent''.

(d) INDEXING.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS ACQUIRED ON OR AFTER APRIL 1, 2002, FOR PURPOSES OF DETERMINING GAIN.

''(a) GENERAL RULE.—

''(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain on the sale or other disposition by a taxpayer (other than a corporation) of an indexed asset which has been held for more than 5 years, the indexed basis of the asset shall be substituted for its adjusted basis.

''(2) EXCEPTION FOR DEPRECIATION, ETC.—The deductions for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

''(3) EXCEPTION FOR PRINCIPAL RESIDENCES.—Paragraph (1) shall not apply to any disposition of the principal residence (within the meaning of section 121) of the taxpayer .

''(b) INDEXED ASSET.—

''(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

''(A) common stock in a C corporation (other than a foreign corporation), and

''(B) tangible property,

which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

''(2) STOCK IN CERTAIN FOREIGN CORPORATIONS INCLUDED.—For purposes of this section—

''(A) IN GENERAL.—The term 'indexed asset' includes common stock in a foreign corporation which is regularly traded on an established securities market.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to—

''(i) stock of a foreign investment company (within the meaning of section 1246(b)),

''(ii) stock in a passive foreign investment company (as defined in section 1296),

''(iii) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2), and

''(iv) stock in a foreign personal holding company (as defined in section 552).

''(C) TREATMENT OF AMERICAN DEPOSITORY RECEIPTS.—An American depository receipt for common stock in a foreign corporation shall be treated as common stock in such corporation.

''(c) INDEXED BASIS.—For purposes of this section—

''(1) GENERAL RULE.—The indexed basis for any asset is—

''(A) the adjusted basis of the asset, increased by

''(B) the applicable inflation adjustment.

''(2) APPLICABLE INFLATION ADJUSTMENT.—The applicable inflation adjustment for any asset is an amount equal to—

''(A) the adjusted basis of the asset, multiplied by

''(B) the percentage (if any) by which—

''(i) the chain-type price index for GDP for the last calendar quarter ending before the asset is disposed of, exceeds

''(ii) the chain-type price index for GDP for the last calendar quarter ending before the asset was acquired by the taxpayer.

The percentage under subparagraph (B) shall be rounded to the nearest ⅒ of 1 percentage point.

''(3) CHAIN-TYPE PRICE INDEX FOR GDP.—The chain-type price index for GDP for any calendar quarter is such index for such quarter (as shown in the last revision thereof released by the Secretary of Commerce before the close of the following calendar quarter).

''(d) SUSPENSION OF HOLDING PERIOD WHERE DIMINISHED RISK OF LOSS; TREATMENT OF SHORT SALES.—

''(1) IN GENERAL.—If the taxpayer (or a related person) enters into any transaction which substantially reduces the risk of loss from holding any asset, such asset shall not be treated as an indexed asset for the period of such reduced risk.

''(2) SHORT SALES.—

''(A) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 5 years, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) increased by the applicable inflation adjustment. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date of acquisition and the closing date for the sale shall be treated as the date of disposition.

''(B) SHORT SALE PERIOD.—For purposes of subparagraph (A), the short sale period begins on the day that the property is sold and ends on the closing date for the sale.

''(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

''(1) ADJUSTMENTS AT ENTITY LEVEL.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

''(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations—

''(i) in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

''(I) the determination of whether such distribution is a dividend shall be made without regard to this section, and

''(II) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year (determined without regard to this section) exceeds the entity's net capital gain for such year determined with regard to this section, and

''(ii) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.

For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

''(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

''(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—

''(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(i)(II). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

''(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

''(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

''(A) REGULATED INVESTMENT COMPANIES.—Stock in a regulated investment company (within the meaning of section 851) shall be an indexed asset for any calendar quarter in the same ratio as—

''(i) the average of the fair market values of the indexed assets held by such company at the close of each month during such quarter, bears to

''(ii) the average of the fair market values of all assets held by such company at the close of each such month.

''(B) REAL ESTATE INVESTMENT TRUSTS.—Stock in a real estate investment trust (within the meaning of section 856) shall be an indexed asset for any calendar quarter in the same ratio as—

''(i) the fair market value of the indexed assets held by such trust at the close of such quarter, bears to

''(ii) the fair market value of all assets held by such trust at the close of such quarter.

''(C) RATIO OF 80 PERCENT OR MORE.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 80 percent or more, such ratio for such quarter shall be 100 percent.

''(D) RATIO OF 20 PERCENT OR LESS.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 20 percent or less, such ratio for such quarter shall be zero.

''(E) LOOK-THRU OF PARTNERSHIPS.—For purposes of this paragraph, a qualified investment entity which holds a partnership interest shall be treated (in lieu of holding a partnership interest) as holding its proportionate share of the assets held by the partnership.

''(3) TREATMENT OF RETURN OF CAPITAL DISTRIBUTIONS.—Except as otherwise provided by the Secretary, a distribution with respect to stock in a qualified investment entity which is not a dividend and which results in a reduction in the adjusted basis of such stock shall be treated as allocable to stock acquired by the taxpayer in the order in which such stock was acquired.

''(4) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

''(A) a regulated investment company (within the meaning of section 851), and

''(B) a real estate investment trust (within the meaning of section 856).

''(f) OTHER PASS-THRU ENTITIES.—

''(1) PARTNERSHIPS.—

''(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

''(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

''(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

''(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

''(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

''(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants.

''(4) INDEXING ADJUSTMENT DISREGARDED IN DETERMINING LOSS ON SALE OF INTEREST IN ENTITY.—Notwithstanding the preceding provisions of this subsection, for purposes of determining the amount of any loss on a sale or exchange of an interest in a partnership, S corporation, or common trust fund, the adjustment made under subsection (a) shall not be taken into account in determining the adjusted basis of such interest.

''(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

''(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

''(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

''(A) persons bearing a relationship set forth in section 267(b), and

''(B) persons treated as single employer under subsection (b) or (c) of section 414.

''(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

''(i) SPECIAL RULES.—For purposes of this section—

''(1) TREATMENT OF IMPROVEMENTS, ETC.—If there is an addition to the adjusted basis of any tangible property or of any stock in a corporation during the taxable year by reason of an improvement to such property or a contribution to capital of such corporation—

''(A) such addition shall never be taken into account under subsection (c)(1)(A) if the aggregate amount thereof during the taxable year with respect to such property or stock is less than $1,000, and

''(B) such addition shall be treated as a separate asset acquired at the close of such taxable year if the aggregate amount thereof during the taxable year with respect to such property or stock is $1,000 or more.

A rule similar to the rule of the preceding sentence shall apply to any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

''(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation adjustment shall be appropriately reduced for periods during which the asset was not an indexed asset.

''(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

''(4) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

''(5) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''

(e) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

''Sec. 1022. Indexing of certain assets acquired on or after April 1, 2002, for purposes of determining gain.''

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years ending after May 6, 1997.

(2) WITHHOLDING.—The amendment made by subsection (c)(2) shall apply only to amounts paid after the date of the enactment of this Act.

(3) INDEXING.—

(A) IN GENERAL.—The amendments made by subsections (d) and (e) shall apply to the disposition of any property the holding period of which begins on or after April 1, 2002.

(B) CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by subsections (d) and (e) shall not apply to the disposition of any property acquired on or after April 1, 2002, from a related person (as defined in section 1022(g)(2) of the Internal Revenue Code of 1986, as added by this section) if—

(i) such property was so acquired for a price less than the property's fair market value, and

(ii) the amendments made by this section did not apply to such property in the hands of such related person.

(g) ELECTION TO RECOGNIZE GAIN ON ASSETS HELD ON OR AFTER APRIL 1, 2002.—For purposes of the Internal Revenue Code of 1986—

(1) IN GENERAL.—A taxpayer other than a corporation may elect to treat—

(A) any readily tradable stock (which is an indexed asset) held by such taxpayer on or after April 1, 2002, and not sold before the next business day after such date, as having been sold on such next business day for an amount equal to its closing market price on such next business day (and as having been reacquired on such next business day for an amount equal to such closing market price), and

(B) any other indexed asset held by the taxpayer on or after April 1, 2002, as having been sold on such date for an amount equal to its fair market value on such date (and as having been reacquired on such date for an amount equal to such fair market value).

(2) TREATMENT OF GAIN OR LOSS.—

(A) Any gain resulting from an election under paragraph (1) shall be treated as received or accrued on the date the asset is treated as sold under paragraph (1) and shall be recognized notwithstanding any provision of the Internal Revenue Code of 1986.

(B) Any loss resulting from an election under paragraph (1) shall not be allowed for any taxable year.

(3) ELECTION.—An election under paragraph (1) shall be made in such manner as the Secretary of the Treasury or his delegate may prescribe and shall specify the assets for which such election is made. Such an election, once made with respect to any asset, shall be irrevocable.

(4) READILY TRADABLE STOCK.—For purposes of this subsection, the term ''readily tradable stock'' means any stock which, as of April 1, 2002, is readily tradable on an established securities market or otherwise.

TORRICELLI (AND LANDRIEU) AMENDMENT NO. 578

Mr. TORRICELLI (for himself and Ms. LANDRIEU) proposed an amendment to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . EXCLUSION FROM INCOME OF SEVERANCE PAYMENT AMOUNTS; TIME PERIODS FOR CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.

(a) EXCLUSION FROM INCOME OF SEVERANCE PAYMENT AMOUNTS.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

''SEC. 138. SEVERANCE PAYMENTS.

''(a) IN GENERAL.—In the case of an individual, gross income shall not include any qualified severance payment.

''(b) LIMITATION.—The amount to which the exclusion under subsection (a) applies shall not exceed $2,000 with respect to any separation from employment.

''(c) QUALIFIED SEVERANCE PAYMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified severance payment' means any payment received by an individual if—

''(A) such payment was paid by such individual's employer on account of such individual's separation from employment,

''(B) such separation was in connection with a reduction in the work force of the employer, and

''(C) such individual does not attain employment within 6 months of the date of such separation in which the amount of compensation is equal to or greater than 95 percent of the amount of compensation for the employment that is related to such payment.

''(2) LIMITATION.—Such term shall not include any payment received by an individual if the aggregate payments received with respect to the separation from employment exceed $125,000.''

(b) TIME PERIODS FOR CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.—Section 39(a) (relating to unused credits) is amended—

(1) in paragraph (1), by striking ''3'' each place it appears and inserting ''1'' and by striking ''15'' each place it appears and inserting ''20''; and

(2) in paragraph (2), by striking ''18'' each place it appears and inserting ''22'' and by striking ''17'' each place it appears and inserting ''21''.

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 138 and inserting the following new items:

''Sec. 138. Severance payments.

''Sec. 139. Cross references to other Acts.''

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to taxable years beginning after December 31, 1997, and before July 1, 2002.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to the carryback and carryforward of credits arising in taxable years beginning after December 31, 1997.

HARKIN (AND OTHERS) AMENDMENT NO. 579

Mr. HARKIN (for himself, Mr. D'AMATO, Mr. MACK, and Mr. SPECTER) proposed an amendment to the bill, supra; as follows:

On page 1027, between lines 7 and 8, insert the following:

Subtitle N—National Fund for Health Research

SEC. 5995. SHORT TITLE.

This subtitle may be cited as the ''National Fund for Health Research Act''.

SEC. 5996. FINDINGS.

Congress makes the following findings:

(1) Nearly 4 of 5 peer reviewed research projects deemed worthy of funding by the National Institutes of Health are not funded.

(2) Less than 3 percent of the nearly one trillion dollars our Nation spends on health care is devoted to health research, while the defense industry spends 15 percent of its budget on research and development.

(3) Public opinion surveys have shown that Americans want more Federal resources put into health research and are willing to pay for it.

(4) Ample evidence exists to demonstrate that health research has improved the quality of health care in the United States. Advances such as the development of vaccines, the cure of many childhood cancers, drugs that effectively treat a host of diseases and disorders, a process to protect our Nation's blood supply from the HIV virus, progress against cardiovascular disease including heart attack and stroke, and new strategies for the early detection and treatment of diseases such as colon, breast, and prostate cancer clearly demonstrates the benefits of health research.

(5) Health research which holds the promise of prevention of intentional and unintentional injury and cure and prevention of disease and disability, is critical to holding down health care costs in the long term.

(6) Expanded medical research is also critical to holding down the long-term costs of the medicare program under title XVIII of the Social Security Act. For example, recent research has demonstrated that delaying the onset of debilitating and costly conditions like Alzheimer's disease could reduce general health care and medicare costs by billions of dollars annually.

(7) The state of our Nation's research facilities at the National Institutes of Health and at universities is deteriorating significantly. Renovation and repair of these facilities are badly needed to maintain and improve the quality of research.

(8) Because discretionary spending is likely to decline in real terms over the next 5 years, the Nation's investment in health research through the National Institutes of Health is likely to decline in real terms unless corrective legislative action is taken.

(9) A health research fund is needed to maintain our Nation's commitment to health research and to increase the percentage of approved projects which receive funding at the National Institutes of Health.

SEC. 5997. ESTABLISHMENT OF FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the ''National Fund for Health Research'' (hereafter in this section referred to as the ''Fund''), consisting of such amounts as are transferred to the Fund under subsection (b) any sums specifically designated for such purpose by future acts of Congress, and any interest earned on investment of amounts in the Fund.

(b) TRANSFERS TO FUND.—

(1) IN GENERAL.—The Secretary of the Treasury shall transfer to the Fund amounts equivalent to one half the amounts for each of the fiscal years 1998 through 2002 derived for each such fiscal year under Section 311 through Section 314 of this act that exceeds the amount of Federal revenues estimated by the Joint Tax Committee as of the date of enactment of this act, to be gained from enactment of Section 311 through Section 314 for each such fiscal year.

(B) DETERMINATION BY SECRETARY.—Not later than 6 months after the end of each of the fiscal years described in subparagraph (A), the Secretary of the Treasury shall—

(i) make a determination as to the amount to be transferred to the Fund for the fiscal year involved under this subsection; and

(ii) subject to subsection (d), transfer such amount to the Fund.

(C) FUND ADMINISTERED BY HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services shall administer funds transferred into the Fund.

(D) CAP ON TRANSFER.—Amounts transferred to the Fund under this subsection for any year in the 5-fiscal year period beginning on October 1, 1997, shall not in combination with the appropriated amount exceed an amount equal to the amount appropriated for the National Institutes of Health for fiscal year 1997 multiplied by 2.

(c) OBLIGATIONS FROM FUND.—

(1) IN GENERAL.—Subject to the provisions of paragraph (4), with respect to the amounts made available in the Fund in a fiscal year, the Secretary of Health and Human Services shall distribute—

(A) 2 percent of such amounts during any fiscal year to the Office of the Director of the * * *

* * * * *

Act with respect to health information communications; and

(D) the remainder of such amounts during any fiscal year to member institutes and centers, including the Office of AIDS Research, of the National Institutes of Health in the same proportion to the total amount received under this section, as the amount of annual appropriations under appropriations Acts for each member institute and Centers for the fiscal year bears to the total amount of appropriations under appropriations Acts for all member institutes and Centers of the National Institutes of Health for the fiscal year.

(2) PLANS OF ALLOCATION.—The amounts transferred under paragraph (1)(D) shall be allocated by the Director of the National Institutes of Health or the various directors of the institutes and centers, as the case may be, pursuant to allocation plans developed by the various advisory councils to such directors, after consultation with such directors.

(3) GRANTS AND CONTRACTS FULLY FUNDED IN FIRST YEAR.—With respect to any grant or contract funded by amounts distributed under paragraph (1), the full amount of the total obligation of such grant or contract shall be funded in the first year of such grant or contract, and shall remain available until expended.

(4) TRIGGER AND RELEASE OF MONIES.—

(A) TRIGGER AND RELEASE.—No expenditure shall be made under paragraph (1) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

(d) REQUIRED APPROPRIATION.—No transfer may be made for a fiscal year under subsection (b) unless an appropriations Act providing for such a transfer has been enacted with respect to such fiscal year.

KENNEDY (AND D'AMATO) AMENDMENT NO. 580

(Ordered to lie on the table.)

Mr. KENNEDY (for himself, and Mr. D'AMATO) submitted an amendment intended to be proposed by them to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. 780. TAX TREATMENT OF CONSOLIDATIONS OF LIFE INSURANCE DEPARTMENTS OF MUTUAL SAVINGS BANKS.

(a) GENERAL RULE.—Section 594 (relating to alternative tax for mutual savings banks conducting life insurance business) is amended by adding at the end thereof the following new subsection:

''(c) TREATMENT OF CONSOLIDATIONS.—If 2 or more life insurance departments to which subsection (a) applied are consolidated into a single life insurance company pursuant to a requirement of State law—

''(1) such consolidation shall be treated as a reorganization described in section 368(a)(1)(E), and

''(2) any payments required to be made to policyholders in connection with such consolidation shall be treated as policyholder dividends deductible under section 808 but only if—

''(A) such payments are only with respect to policies in effect immediately before such consolidation,

''(B) such payments are only with respect to policies which are participating before and after such consolidation,

''(C) such payments shall cease with respect to any policy if such policy lapses after such consolidation,

''(D) the policyholders before such consolidation had no divisible right to the surplus of any such department and had no right to vote, and

''(E) the approval of such policyholders was not required for such consolidation.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 31, 1991.

MOSELEY-BRAUN (AND OTHERS) AMENDMENT NO. 581

Ms. MOSELEY-BRAUN (for herself, Mr. KENNEDY, and Mr. WELLSTONE) proposed an amendment to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

Subtitle G—Tax Credit for Public Elementary and Secondary School Construction

SEC. 781. TAX CREDIT FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOL CONSTRUCTION.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to general business credits) is amended by adding at the end the following new section:

''SEC. 45B. CREDIT FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOL CONSTRUCTION.

''(a) IN GENERAL.—For purposes of section 38, the amount of the school construction credit determined under this section for an eligible taxpayer for any taxable year with respect to an eligible school construction project shall be an amount equal to the lesser of—

''(1) the applicable percentage of the qualified school construction costs, or

''(2) the excess (if any) of—

''(A) the taxpayer's allocable school construction amount with respect to such project under subsection (d), over

''(B) any portion of such allocable amount used under this section for preceding taxable years.

''(b) ELIGIBLE TAXPAYER; ELIGIBLE SCHOOL CONSTRUCTION PROJECT.—For purposes of this section—

''(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means any person which—

''(A) has entered into a contract with a local educational agency for the performance of construction or related activities in connection with an eligible school construction project, and

''(B) has received an allocable school construction amount with respect to such contract under subsection (d).

''(2) ELIGIBLE SCHOOL CONSTRUCTION PROJECT.—

''(A) IN GENERAL.—The term 'eligible school construction project' means any project related to a public elementary school or secondary school that is conducted for 1 or more of the following purposes:

''(i) Construction of school facilities in order to ensure the health and safety of all students, which may include—

''(I) the removal of environmental hazards,

''(II) improvements in air quality, plumbing, lighting, heating and air conditioning, electrical systems, or basic school infrastructure, and

''(III) building improvements that increase school safety.

''(ii) Construction activities needed to meet the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) or of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

''(iii) Construction activities that increase the energy efficiency of school facilities.

''(iv) Construction that facilitates the use of modern educational technologies.

''(v) Construction of new school facilities that are needed to accommodate growth in school enrollments.

''(vi) Such other construction as the Secretary of Education determines appropriate.

''(B) SPECIAL RULES.—For purposes of this paragraph—

''(i) the term 'construction' includes reconstruction, renovation, or other substantial rehabilitation, and

''(ii) an eligible school construction project shall not include the costs of acquiring land (or any costs related to such acquisition).

''(c) QUALIFIED SCHOOL CONSTRUCTION COSTS; APPLICABLE PERCENTAGE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified school construction costs' means the aggregate amounts paid to an eligible taxpayer during the taxable year under the contract described in subsection (b)(1).

''(2) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means, in the case of an eligible school construction project related to a local educational agency, the higher of the following percentages:

''(A) If the local educational agency has a percentage or number of children described in clause (i)(I) or (ii)(I) of section 1125(c)(2)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6335(c)(2)(A)), the applicable percentage is 10 percent.

''(B) If the local educational agency has a percentage or number of children described in clause (i)(II) or (ii)(II) of such section, the applicable percentage is 15 percent.

''(C) If the local educational agency has a percentage or number of children described in clause (i)(III) or (ii)(III) of such section, the applicable percentage is 20 percent.

''(D) If the local educational agency has a percentage or number of children described in clause (i)(IV) or (ii)(IV) of such section, the applicable percentage is 25 percent.

''(E) If the local educational agency has a percentage or number of children described in clause (i)(V) or (ii)(V) of such section, the applicable percentage is 30 percent.

''(d) ALLOCABLE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—Subject to paragraph (3), a local educational agency may allocate to any person a school construction amount with respect to any eligible school construction project.

''(2) TIME FOR MAKING ALLOCATION.—An allocation shall be taken into account under paragraph (1) only if the allocation is made at the time the contract described in subsection (b)(1) is entered into (or such later time as the Secretary may by regulation allow).

''(3) COORDINATION WITH STATE PROGRAM.—A local educational agency may not allocate school construction amounts for any calendar year—

''(A) which in the aggregate exceed the amount of the State school construction ceiling allocated to such agency for such calendar year under subsection (e), and

''(B) which is consistent with any specific allocation required by the State or this section.

''(e) STATE CEILINGS AND ALLOCATION.—

''(1) IN GENERAL.—A State educational agency shall allocate to local educational agencies within the State for any calendar year a portion of the State school construction ceiling for such year. Such allocations shall be consistent with the State application which has been approved under subsection (f) and with any requirement of this section.

''(2) STATE SCHOOL CONSTRUCTION CEILING.—

''(A) IN GENERAL.—The State school construction ceiling for any State for any calendar year shall be an amount equal to the State's allocable share of the national school construction amount.

''(B) STATE'S ALLOCABLE SHARE.—The State's allocable share of the national school construction amount for a fiscal year shall bear the same relation to the national school construction amount for the fiscal year as the amount the State received under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the preceding fiscal year bears to the total amount received by all States under such section for such preceding fiscal year.

''(C) NATIONAL SCHOOL CONSTRUCTION AMOUNT.—The national school construction amount for any calendar year is the lesser of—

''(i) $1,000,000,000, or

''(ii) the amount made available for such year under the School Infrastructure Improvement Trust Fund established under section 9512,

reduced by any amount described in paragraph (3).

''(3) SPECIAL ALLOCATIONS FOR INDIAN TRIBES AND TERRITORIES.—

''(A) ALLOCATION TO INDIAN TRIBES.—The national school construction amount under paragraph (2)(C) shall be reduced by 1.5 percent for each calendar year and the Secretary of Interior shall allocate such amount among Indian tribes according to their respective need for assistance under this section.

''(B) ALLOCATION TO TERRITORIES.—The national school construction amount under paragraph (2)(C) shall be reduced by 0.5 percent for each calendar year and the Secretary of Education shall allocate such amount among the territories according to their respective need for assistance under this section.

''(4) REALLOCATION.—If the Secretary of Education determines that a State is not making satisfactory progress in carrying out the State's plan for the use of funds allocated to the State under this section, the Secretary may reallocate all or part of the State school construction ceiling to 1 or more other States that are making satisfactory progress.

''(e) STATE APPLICATION.—

''(1) IN GENERAL.—A State educational agency shall not be eligible to allocate any amount to a local educational agency for any calendar year unless the agency submits to the Secretary of Education (and the Secretary approves) an application containing such information as the Secretary may require, including—

''(A) an estimate of the overall condition of school facilities in the State, including the projected cost of upgrading schools to adequate condition;

''(B) an estimate of the capacity of the schools in the State to house projected student enrollments, including the projected cost of expanding school capacity to meet rising student enrollment;

''(C) the extent to which the schools in the State have the basic infrastructure elements necessary to incorporate modern technology into their classrooms, including the projected cost of upgrading school infrastructure to enable the use of modern technology in classrooms;

''(D) the extent to which the schools in the State offer the physical infrastructure needed to provide a high-quality education to all students; and

''(E) an identification of the State agency that will allocate credit amounts to local educational agencies within the State.

''(2) SPECIFIC ITEMS IN ALLOCATION.—The State shall include in the State's application the process by which the State will allocate the credits to local educational agencies within the State. The State shall consider in its allocation process the extent to which—

''(A) the school district served by the local educational agency has—

''(i) a high number or percentage of the total number of children aged 5 to 17, inclusive, in the State who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); or

''(ii) a high percentage of the total number of low-income residents in the State;

''(B) the local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency's bonding capacity and otherwise, to undertake the eligible school construction project without assistance;

''(C) the local area makes an unusually high local tax effort, or has a history of failed attempts to pass bond referenda;

''(D) the local area contains a significant percentage of federally owned land that is not subject to local taxation;

''(E) the threat the condition of the physical facility poses to the safety and well-being of students;

''(F) there is a demonstrated need for the construction, reconstruction, renovation, or rehabilitation based on the condition of the facility;

''(G) the extent to which the facility is overcrowded; and

''(H) the extent to which assistance provided will be used to support eligible school construction projects that would not otherwise be possible to undertake.

''(3) IDENTIFICATION OF AREAS.—The State shall include in the State's application the process by which the State will identify the areas of greatest needs (whether those areas are in large urban centers, pockets of rural poverty, fast-growing suburbs, or elsewhere) and how the State intends to meet the needs of those areas.

''(4) ALLOCATIONS ON BASIS OF APPLICATION.—The Secretary of Education shall evaluate applications submitted under this subsection and shall approve any such application which meets the requirements of this section.

''(g) REQUIRED ALLOCATIONS.—Notwithstanding any process for allocation under a State application under subsection (f), in the case of a State which contains 1 or more of the 100 school districts within the United States which contains the largest number of poor children (as determined by the Secretary of Education), the State shall allocate each calendar year to the local educational agency serving such districts that portion of the State school construction ceiling which bears the same ratio to such ceiling as the number of children in such district for the

preceding calendar year who are counted for purposes of section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)) bears to the total number of children in such State who are so counted.

''(h) DEFINITIONS.—For purposes of this section—

''(1) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms 'elementary school', 'local educational agency', 'secondary school', and 'State educational agency' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

''(2) TERRITORIES.—The term 'territories' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(3) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.''

(b) INCLUSION IN GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) the school construction credit determined under section 45D(a).''

(2) TRANSITION RULE.—Section 39(d) is amended by adding at the end the following new paragraph:

''(8) NO CARRYBACK OF SECTION 45D CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the school construction credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D.''

(c) ESTABLISHMENT OF SCHOOL INFRASTRUCTURE IMPROVEMENT TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 is amended by adding at the end the following new section:

''SEC. 9512. SCHOOL INFRASTRUCTURE IMPROVEMENT TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'School Infrastructure Improvement Trust Fund', consisting of such amounts as may be credited or paid to such Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—

''(1) IN GENERAL.—There are hereby appropriated to the Trust Fund for any calendar year an amount equal to the lesser of—

''(A) the revenue surplus determined under paragraph (2) for the preceding calendar year, or

''(B) $1,000,000,000.

''(2) REVENUE SURPLUS.—The revenue surplus determined under this paragraph for any calendar year is an amount equal to the excess (if any) of—

''(A) the Secretary's estimate of revenues received in the Treasury of the United States for the calendar year, over

''(B) the amount the Director of the Congressional Budget Office estimated would be so received in the report provided to the Committees on the Budget of the House and the Senate pursuant to section 202(f)(1) of the Congressional Budget Act of 1974, as amended.

''(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Trust Fund shall be transferred to the general fund of the Treasury at such times as the Secretary determines appropriate to offset any decrease in Federal revenues by reason of credits allowed under section 38 which are attributable to the school construction credit determined under section 45D.''

(2) CONFORMING AMENDMENT.—The table of section for subchapter A of chapter 98 is amended by adding at the end the following new item:

''Sec. 9512. School Infrastructure Improvement Trust Fund.

(d) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45B. Credit for public elementary and secondary school construction.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

FEINGOLD (AND BUMPERS) AMENDMENT NO. 582

Mr. FEINGOLD (for himself and Mr. BUMPERS) proposed an amendment to the bill, S. 949, supra; as follows:

On page 400, between lines 14 and 15, insert the following:

SEC. . CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) IN GENERAL.—Section 613(b)(1) (relating to percentage depletion rates) is amended—

(A) in subparagraph (A), by striking ''and uranium''; and

(B) in subparagraph (B), by striking ''asbestos,'', ''lead,'', and ''mercury,'',

(b) CONFORMING AMENDMENTS.—

(1) Section 613(b)(3)(A) is amended by inserting ''other than lead, mercury, or uranium'' after ''mental mines''.

(2) Section 613(b)(4) is amended by striking ''asbestos (if paragraph (1)(B) does not apply),''.

(3) Section 613(b)(7) is amended by striking ''or'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', or'', and by inserting after subparagraph (C) the following:

''(D) mercury, uranium, lead, and asbestos.''

(4) Section 613(c)(4)(D) is amended by striking ''lead,'' and ''uranium,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

GRAHAM AMENDMENT NO. 583

Mr. ROTH (for Mr. GRAHAM) proposed an amendment to the bill, S. 949, supra; as follows:

On page 93, strike lines 13 through 25, and insert:

''(ii) a silver coin described in section 5112(e) of title 31, United States Code,

''(iii) a platinum coin described in section 5112(k) of title 31, United States Code, or

''(iv) a coin issued under the laws of any State, or

''(B) any gold, silver, platinum, or palladium bullion of a fineness equal to or exceeding the minimum fineness required for metals which may be delivered in satisfaction of a regulated futures contract subject to regulation by the Commodity Futures Trading Commission under the Commodity Exchange Act,

On page 205, before line 12, insert the following:

(c) SPECIAL AMORTIZATION RULE.—

(1) CODE AMENDMENT.—Section 412(b)(2) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by inserting after subparagraph (D) the following:

''(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I).''.

(2) ERISA AMENDMENT.—Section 302(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)(2)) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by inserting after subparagraph (D) the following:

''(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 412(c)(7)(D) is amended by adding ''and'' at the end of clause (i), by striking '', and'' at the end of clause (ii) and inserting a period, and by striking clause (iii).

(B) Section 302(c)(7)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)(D)) is amended by adding ''and'' at the end of clause (i), by striking '', and'' at the end of clause (ii) and inserting a period, and by striking clause (iii).

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1998.

(B) SPECIAL RULE FOR 1999.—In the case of a plan's first year beginning in 1999, there shall be added to the amount required to be amortized under section 412(b)(2)(E) of the Internal Revenue Code of 1986 and section 302(b)(2)(E) of the Employee Retirement Income Security Act of 1974 (as added by paragraphs (1) and (2)) over the 20-year period beginning with such year, the unamortized balance (as of the close of the preceding plan year) of any amount required to be amortized under section 412(c)(7)(D)(iii) of such Code and section 302(c)(7)(D)(iii) of such Act (as repealed by paragraph (3)) for plan years beginning before 1999.

On page 639, between lines 11 and 12, insert:

(4) AMENDMENTS RELATED TO SECTION 1461.—

(A) Section 415(e)(5)(A) is amended to read as follows:

''(A) CERTAIN MINISTERS MAY PARTICIPATE.—For purposes of this part—

''(i) IN GENERAL.—A duly ordained, commissioned, or licensed minister of a church is described in paragraph (3)(B) if, in connection with the exercise of their ministry, the minister—

''(I) is a self-employed individual (within the meaning of section 401(c)(1)(B), or

''(II) is employed by an organization other than an organization which is described in section 501(c)(3) and with respect to which the minister shares common religious bonds.

''(ii) TREATMENT AS EMPLOYER AND EMPLOYEE.—For purposes of sections 403(b)(1)(A) and 404(a)(10), a minister described in clause (i)(I) shall be treated as employed by the minister's own employer which is an organization described in section 501(c)(3) and exempt from tax under section 501(a).''

(B) Section 403(b)(1)(A) is amended by striking ''or'' at the end of clause (i), by inserting ''or'' at the end of clause (ii), and by adding at the end the following new clause:

''(iii) for the minister described in section 415(e)(5)(A) by the minister or by an employer.''.

NICKLES (AND BOND) AMENDMENT NO. 584

Mr. ROTH (for Mr. NICKLES, for himself and Mr. BOND) proposed an amendment to the bill, S. 949, supra; as follows:

On page 212, between lines 11 and 12, insert the following:

SEC. . SENSE OF THE SENATE WITH RESPECT TO SELF-EMPLOYMENT TAX OF LIMITED PARTNERS.

(a) FINDINGS.—The Senate finds that—

(1) the Department of the Treasury issued Proposed Regulation 1.1402(a)–2 in January 1997 relating to the definition of a limited partner for self-employment tax purposes under section 1402(a)(13) of the Internal Revenue Code;

(2) since 1977, section 1402(a)(13) of such Code has provided that—

(A) a limited partner's net earnings from self-employment include only guaranteed payments made to the individual for services actually rendered and do not include a limited partner's distributive share of the income or loss of the partnership, and

(B) a general partner's net earnings from self-employment include the partner's distributive share;

(3) the proposed regulations provide generally—

(A) that a partner will not be treated as a limited partner if the individual—

(i) has personal liability for partnership debts,

(ii) has authority to contract on behalf of the partnership, or

(iii) participates in the partnership's trade or business for more than 500 hours during the taxable year;

(B) that an individual meeting any one of these three criteria will be treated as a general partner, and net earnings from self-employment will include the partner's distributive share of partnership income and loss, resulting in substantial tax liability because there is a 15.3 percent tax on self-employment income below $65,400 in 1997 and a 2.9 percent hospital insurance tax on self-employment income above that amount;

(4) certain types of entities, such as limited liability companies and limited liability partnerships, were not widely used at the time the present rule relating to limited partners was enacted, and that the proposed regulations attempt to address owners of such entities.

(5) the Senate is concerned that the proposed change in the treatment of individuals who are limited partners under applicable State law exceeds the regulatory authority of the Treasury Department and would effectively change the law administratively without congressional action; and

(6) the proposed regulations address and raise significant policy issues and the proposed definition of a limited partner may have a substantial impact on the tax liability of certain individuals and may also affect individuals' entitlement to social security benefits.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the Department of the Treasury and the Internal Revenue Service should withdraw Proposed Regulation 1.1402(a)–(2) which imposes a tax on limited partners; and

(2) Congress, not the Department of the Treasury or the Internal Revenue Service, should determine the tax law governing self-employment income for limited partners.

SPECTER AMENDMENT NO. 585

Mr. ROTH (for Mr. SPECTER) proposed an amendment to the bill S. 949, supra; as follows:

On page 20, between lines 5 and 6, insert the following;

SEC. 105. ADOPTION EXPENSES.

(a) DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PAY ADOPTION EXPENSES.—

(1) IN GENERAL.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following:

''(E) DISTRIBUTIONS FROM CERTAIN PLANS FOR ADOPTION EXPENSES.—Distributions to an individual from an individual retirement plan of so much of the qualified adoption expenses (as defined in section 23(d)(1)) of the individual as does not exceed $2,000.''.

(C) CONFORMING AMENDMENT.—Section 72(t)(2)(B) is amended by striking ''or (D)'' and inserting '', (D) or (E)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments and distributions after December 31, 1996.

FAIRCLOTH (AND OTHERS) AMENDMENT NO. 586

Mr. ROTH (for Mr. FAIRCLOTH, for himself, Mr. HELMS, and Mr. LOTT) proposed an amendment to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SECTION . CURRENT REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.

(a) IN GENERAL.—Subsection (c) of section 10632 of the Revenue Act of 1987 (relating to bonds issued by Indian tribal governments) is amended by adding at the end the following new sentence: ''The amendments made by this section shall not apply to any obligation issued after such date if—

''(1) such obligation is issued (or is part of a series of obligations issued) to refund an obligation issued on or before such date,

''(2) the average maturity date of the issue of which the refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue,

''(3) the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation, and

''(4) the net proceeds of the refunding obligation are used to redeem the refunded obligation not later than 90 days after the date of the issuance of the refunding obligation.

For purposes of paragraph (2), average maturity shall be determined in accordance with section 147(b)(2)(A) of the Internal Revenue Code of 1986.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to refunding obligations issued after the date of the enactment of this Act.

GORTON AMENDMENT NO. 587

Mr. ROTH (for Mr. GORTON) proposed an amendment to the bill, S. 949, supra; as follows:

At the end of title VII, insert:

SEC. . SPECIAL RULE FOR THRIFTS WHICH BECOME LARGE BANKS.

(a) IN GENERAL.—Section 593(g)(2) (defining applicable excess reserves) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR THRIFTS WHICH BECAME LARGE BANKS IN 1995.—

''(i) IN GENERAL.—In the case of a bank (as defined in section 581) which became a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1994, the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before January 1, 1995, if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A).

''(ii) APPLICATION OF CUT-OFF METHOD; ETC.—In the case of a taxpayer to which this subparagraph applies—

''(I) paragraph (5)(B) shall apply, and

''(II) this subparagraph shall not apply in determining the amount taken into account by the taxpayer under subparagraph (A)(ii) for purposes of paragraphs (5) and (6) or subsection (e)(1).''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 1616 of the Small Business Job Protection Act of 1996.

SANTORUM AMENDMENT NO. 588

Mr. ROTH (for Mr. SANTORUM) proposed an amendment to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) Congress has not provided a genuine tax cut for America's middle-class families since 1981;

(2) President Clinton promised middle-class tax cuts in 1992;

(3) President Clinton raised taxes by $240,000,000,000 in 1993;

(4) President Clinton vetoed middle-class tax cuts in 1995;

(5) the Middle-class American worker had to work until May 9 in order to earn enough money to pay all Federal, State, and local taxes in 1997;

(6) the Joint Economic Committee reports that real total Government taxes per household in 1994 totaled $18,600;

(7) more than 70 percent of the tax cuts in both the House of Representatives and the Senate tax relief bills will go to Americans earning less than $75,000 annually;

(8) the Joint Economic Committee estimates that a family of 4 earning $30,000 will receive 53 percent of the tax relief under the reconciliation bill;

(9) the earned income tax credit was already expanded in President Clinton's 1993 tax bill;

(10) the fiscal year 1998 budget resolution does not make the $500-per-child tax credit refundable; and

(11) those who receive the earned income tax credit do not pay Federal income taxes but receive a substantial cash transfer from the Federal Government in the form of refund checks above and beyond income tax rebates.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that America's middle-class taxpayers shoulder the biggest tax burden and that only those who pay Federal income taxes should benefit from the Federal income tax cuts contained in the Revenue Reconciliation Act of 1997.

BURNS AMENDMENT NO 589

Mr. ROTH (for Mr. BURNS) proposed an amendment to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. 780. AVERAGING OF FARM INCOME OVER 3 YEARS.

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1986 (relating to taxable

year for which items of gross income included) is amended by adding the following new section:

"SEC. 460A. AVERAGING OF FARM INCOME.

''(a) IN GENERAL.—At the election of a taxpayer engaged in a farming business, the tax imposed by section 1 for such taxable year shall be equal to the sum of—

''(1) a tax computed under such section on taxable income reduced by elected farm income, plus

''(2) the increase in tax which would result if taxable income for the 3 prior taxable years were increased by the elected farm income.

''(b) DEFINITIONS.—In this section—

''(1) ELECTED FARM INCOME.—

''(A) IN GENERAL.—The term 'elected farm income' means so much of the taxable income for the taxable year—

''(i) which is attributable to any farming business; and

''(ii) which is specified in the election under subsection (a).

''(B) TREATMENT OF GAINS.—For purposes of subparagraph (A), gain from the sale or other disposition of property (other than land) regularly used by the taxpayer in a farming business for a substantial period shall be treated as attributable to a farming business.

''(2) FARMING BUSINESS.—The term 'farming business' has the meaning given such term by section 263A(e)(4).''

(b) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by adding at the end the following new item:

''Sec. 460A. Averaging of farm income.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act and before January 1, 2001.

Section 503 of the bill is amended on page 161, line 4 by striking ''July 31, 1999'' and inserting ''May 31, 1999.''

WELLSTONE (AND OTHERS) AMENDMENT NO. 590

Mr. WELLSTONE (for himself, Mr. BINGAMAN, Mr. KERRY, Mr. KENNEDY, Mr. REED, and Mr. DODD) proposed an amendment to the bill, S. 949, supra; as follows:

Strike section 201 and insert the following:

SEC. 201. REFUNDABLE CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. HIGHER EDUCATION TUITION AND RELATED EXPENSES.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount equal to 50 percent of qualified tuition and related expenses paid by the taxpayer during such taxable year for education furnished during any academic period beginning in such year.

''(2) SPECIAL RULE FOR EDUCATION AT COMMUNITY COLLEGES AND VOCATIONAL SCHOOLS.—In the case of qualified tuition and related expenses for education furnished at a community college or vocational school, paragraph (1) shall be applied by substituting '75 percent' for '50 percent'.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—The amount allowed as a credit under subsection (a) for any taxable year with respect to the qualified tuition and related expenses of any 1 individual shall not exceed $1,500.

''(2) ELECTION REQUIRED.—

''(A) IN GENERAL.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless the taxpayer elects to have this section apply with respect to such individual for such year.

''(B) CREDIT ALLOWED ONLY FOR 2 TAXABLE YEARS.—An election under this paragraph shall not take effect with respect to an individual for any taxable year if an election under this paragraph (by the taxpayer or any other individual) is in effect with respect to such individual for any 2 prior taxable years.

''(C) COORDINATION WITH EXCLUSIONS.—An election under this paragraph shall not take effect with respect to an individual for any taxable year if there is in effect for such taxable year an election under section 529(c)(3)(B) or 530(c)(1) (by the taxpayer or any other individual) to exclude from gross income distributions from a qualified tuition program or education individual retirement account used to pay qualified higher education expenses of the individual.

''(3) CREDIT ALLOWED FOR YEAR ONLY IF INDIVIDUAL IS AT LEAST ½ TIME STUDENT FOR PORTION OF YEAR.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless such individual is an eligible student for at least one academic period which begins during such year.

''(4) CREDIT ALLOWED ONLY FOR FIRST 2 YEARS OF POSTSECONDARY EDUCATION.—No credit shall be allowed under subsection (a) for any taxable year with respect to the qualified tuition and related expenses of an individual if the individual has completed (before the beginning of such taxable year) the first 2 years of postsecondary education at an eligible educational institution.

''(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

''(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

''(A) the excess of—

''(i) the taxpayer's modified adjusted gross income for such taxable year, over

''(ii) $40,000 ($80,000 in the case of a joint return), bears to

''(B) $10,000 ($20,000 in the case of a joint return).

''(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED TUITION AND RELATED EXPENSES.—

''(A) IN GENERAL.—The term 'qualified tuition and related expenses' means tuition and fees required for the enrollment or attendance of—

''(i) the taxpayer,

''(ii) the taxpayer's spouse, or

''(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an eligible educational institution and books required for courses of instruction of such individual at such institution.

''(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

''(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.

''(D) REDUCTION FOR SCHOLARSHIPS, ETC.—

"For reduction for scholarships, etc. and limitation based on grants, see subsection (g)(2).

''(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an institution—

''(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

''(B) which is eligible to participate in a program under title IV of such Act.

''(3) ELIGIBLE STUDENT.—The term 'eligible student' means, with respect to any academic period, a student who—

''(A) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

''(B) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing.

''(4) COMMUNITY COLLEGE.—The term 'community college' means any institution of higher education (as defined in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141)) that awards an associate's degree.

''(5) VOCATIONAL SCHOOL.—The term 'vocational school' means a postsecondary vocational institution (as defined in section 481 of such Act (20 U.S.C. 1088)).

''(e) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

''(1) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year, and

''(2) qualified tuition and related expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

''(f) TREATMENT OF CERTAIN PREPAYMENTS.—If qualified tuition and related expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

''(g) SPECIAL RULES.—

''(1) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under subsection (a) to a taxpayer with respect to the qualified tuition and related expenses of an individual unless the taxpayer includes the name and taxpayer identification number of such individual on the return of tax for the taxable year.

''(2) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS, ETC.—

''(A) IN GENERAL.—The amount of qualified tuition and related expenses otherwise taken into account under subsection (a) with respect to an individual for an academic period shall be reduced (before the application of subsections (b) and (c)) by the sum of any amounts paid for the benefit of such individual which are allocable to such period as—

''(i) a qualified scholarship which is excludable from gross income under section 117,

''(ii) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code, and

''(iii) a payment (other than a gift, bequest, devise, or inheritance within the

meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an eligible educational institution, which is excludable from gross income under any law of the United States.

''(B) EXCEPTION FOR ROOM AND BOARD.—Subject to subparagraph (C), subparagraph (A) shall not apply to that portion of any amount which is properly allocable to room and board relating to the attendance of the individual at an eligible educational institution.

''(C) LIMITATION ON QUALIFIED TUITION AND RELATED EXPENSES.—In no event shall the qualified tuition and related expenses of an individual for any academic period exceed the excess (if any) of—

''(i) the costs of attendance (as defined in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll) of the individual for such period, over

''(ii) the aggregate amounts described in subparagraph (A) for such period (without regard to subparagraph (B)).

''(3) DENIAL OF CREDIT IF STUDENT CONVICTED OF A FELONY DRUG OFFENSE.—No credit shall be allowed under subsection (a) for qualified tuition and related expenses for the enrollment or attendance of a student for any academic period if such student has been convicted of a Federal or State felony offense consisting of the possession or distribution of a controlled substance before the end of the taxable year with or within which such period ends.

''(4) DENIAL OF CREDIT WHERE NO HIGH SCHOOL DEGREE.—No credit shall be allowed under subsection (a) for qualified tuition and related expenses for the enrollment or attendance of a student for any academic period if such student has not received a high school degree (or its equivalent) before the beginning of such period. This paragraph shall not apply to a student if the student did not receive such degree by reason of enrollment in an early admission program to an eligible educational institution.

''(5) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any expense for which a deduction is allowed under any other provision of this chapter.

''(6) NO CREDIT FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(7) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

''(h) INFLATION ADJUSTMENTS.—

''(1) DOLLAR LIMITATION ON AMOUNT OF CREDIT.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 1998, the $1,500 amount in subsection (b)(1) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

''(2) INCOME LIMITS.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 2000, the $40,000 and $80,000 amounts in subsection (c)(2) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

''(i) COORDINATION WITH MEANS-TESTED PROGRAM.—For purposes of any means-tested Federal program, any refund made to an individual (or the spouse of an individual) shall not be treated as income (and shall not be taken into account in determining resources for the month of its receipt and the following month).

''(j) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.''

(b) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by inserting after subparagraph (H) the following new subparagraph:

''(I) an omission of a correct TIN required under section 35(g)(1) (relating to higher education tuition and related expenses) to be included on a return.''

(c) RETURNS RELATING TO TUITION AND RELATED EXPENSES.—

(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 inserting after section 6050R the following new section:

''SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES.

''(a) IN GENERAL.—Any person—

''(1) which is an eligible educational institution which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

''(2) which is engaged in a trade or business and which, in the course of such trade or business, makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe,

''(2) contains—

''(A) the name, address, and TIN of the individual with respect to whom payments described in subsection (a) were received from (or were paid to),

''(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year, and

''(C) the—

''(i) aggregate amount of payments for qualified tuition and related expenses received with respect to the individual described in subparagraph (A) during the calendar year, and

''(ii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year, and

''(D) such other information as the Secretary may prescribe.

''(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of this section—

''(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

''(2) any return required under subsection (a) by such governmental entity shall be made by the officer or employee appropriately designated for the purpose of making such return.

''(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) or (B) of subsection (b)(2) a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return, and

''(2) the aggregate amounts described in subparagraph (C) of subsection (b)(2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

''(e) DEFINITIONS.—For purposes of this section, the terms 'eligible educational institution' and 'qualified tuition and related expenses' have the meanings given such terms by section 35.

''(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under section 6724 with respect to any return or statement required under this section until such time as such regulations are issued.''

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

''(ix) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),''.

(B) Paragraph (2) of section 6724(d) is amended by striking ''or'' at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting '', or'', and by adding at the end the following new subparagraph:

''(Z) section 6050S(d) (relating to returns relating to qualified tuition and related expenses).''

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050R the following new item:

''Sec. 6050S. Returns relating to higher education tuition and related expenses.''

(d) COORDINATION WITH SECTION 135.—Subsection (d) of section 135 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) COORDINATION WITH HIGHER EDUCATION CREDIT.—The amount of the qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the amount of such expenses which are taken into account in determining the credit allowable to the taxpayer or any other person under section 35 with respect to such expenses.

(e) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 35 the following new items:

''Sec. 35. Higher education tuition and related expenses.

''Sec. 36. Overpayments of tax.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid after December 31, 1997 (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

On page 13, beginning with line 21, strike all through page 14, line 4, and insert:

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the term 'threshold amount' means—

''(i) $90,000 in the case of a joint return,

''(ii) $70,000 in the case of an individual who is not married, and

''(iii) $45,000 in the case of a married individual filing a separate return.

ENZI AMENDMENT NO. 591

Mr. ROTH (for Mr. ENZI) proposed an amendment to the bill, S. 949, supra; as follows:

On page 190, line 1, strike ''(III)'' and insert ''(IV)'' and insert a new subparagraph (A)(ii)(III)—

''(VI) the upgrading and maintenance of intercity primary and rural air service facilities, and the purchase of intercity air service between primary and rural airports and regional hubs; and ''.

WELLSTONE (AND OTHERS) AMENDMENT NO. 592

Mr. WELLSTONE (for himself, Mr. DOMENICI, Mr. REID, and Mr. CONRAD) proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place, insert:

''SEC. 2107A. MENTAL HEALTH PARITY.

''(a) PROHIBITION.—In the case of a health plan that enrolls children through the use of assistance provided under a grant program conducted under this title, such plan, if the plan provides both medical and surgical benefits and mental health benefits, shall not impose treatment limitations or financial requirements on the coverage of mental health benefits if similar limitations or requirements are not imposed on medical and surgical benefits.

''(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as prohibiting a health plan from requiring preadmission screening prior to the authorization of services covered under the plan or from applying other limitations that restrict coverage for mental health services to those services that are medically necessary; and

''(2) as requiring a health plan to provide any mental health benefits.

''(c) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a health plan that offers a child described in subsection (a) 2 or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

''(d) DEFINITIONS.—In this section:

''(1) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan, but does not include mental health benefits.

''(2) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' means benefits with respect to mental health services, as defined under the terms of the plan, but does not include benefits with respect to the treatment of substance abuse and chemical dependency.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to consider the nomination of Patrick A. Shea to be Director of the Bureau of Land Management.

The hearing will take place Thursday, July 17, 1997, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Camille Heninger Flint at (202) 224–5070.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Friday, June 27, after last vote, for a business meeting on issues relating to the matter of issuing subpoenas for the special investigation hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COMMEMORATING THE LIFE OF JACQUES-YVES COUSTEAU

● Mr. HOLLINGS. Mr. President, in every area of human endeavor, major advances often seem to depend on a single individual whose unique vision and dedication to pursuing that vision break through existing barriers to understanding. On Tuesday, the world lost one of those individuals, a pioneer in the area of oceanography and marine conservation. I am speaking, of course, of Jacques-Yves Cousteau.

I have had the pleasure and honor of knowing Jacques Cousteau as a friend and colleague for more than three decades. Our relationship was based on a common passion for exploring and protecting the oceans. We also shared a lifelong interest in ocean and coastal management and in sustainable development and use of marine resources. One of the most valuable perks of membership in the U.S. Senate is the opportunity it affords us to meet gifted leaders from every walk of life. Few of those leaders have made a greater or more lasting contribution than Jacques-Yves Cousteau.

Jacques' first adventure underwater was in Vermont at age 10. For the next 75 years, he continued his adventures, and he brought the rest of us with him. He was a pioneer in undersea exploration, and I can testify firsthand that diving with him was an unforgettable experience. He developed the first scuba gear, took the first underwater color pictures, and started the first undersea colony.

Probably as important as his scientific and technical achievements, Jacques brought the oceans to life for millions of Americans through breathtaking books, films, and his documentary television series, ''The Undersea World of Jacques Cousteau.'' His film ''The Silent World'' brought viewers aboard his ship, the *Calypso*, for the first time and won an Oscar for best documentary. He went on to win 2 more Oscars, 10 Emmys, and numerous other awards by astonishing viewers with the life under the waters all over the world from the Red Sea to Antarctica and from the Caribbean to the Indian Ocean.

As Jacques continued to explore the ocean, he became deeply committed to protecting it against pollution and other manmade hazards. In 1971, he accepted the Senate Commerce Committee's invitation to testify and spoke to us about the International Conference on Ocean Pollution. He later testifed before the committee on other ocean issues. His testimony and other activities were key to public realization that the oceans are not a vast and unlimited resource, that human activities do indeed have profound impacts on the oceans, and consequently, that we have a duty to protect the marine environment.

A number of years later, I was privileged to present Jacques with the 1983 Neptune Award of the American Oceanic Organization. The award recognized his extraordinary contribution to promoting the use, understanding, and protection of the oceans. At the award ceremony, Jacques showed his new film on his trip up the Amazon River. None of those present will forget his evocative description of the pink dolphins and flooded forests of the Amazon. Jacques had a rare gift for allowing people to see the wonderful diversity of life beneath the water's surface.

Jacques-Yves Cousteau taught the world how to appreciate, understand, explore, use, and preserve the oceans which cover 71 percent of the Earth's surface. We will greatly miss his wit, wisdom, and zest for life.●

MISS KANSAS

• Mr. ROBERTS. Mr. President, I rise to congratulate Ms. Lesley Moss of Hoxie, KS, who has been crowned Miss Kansas. Lesley began competing in the Miss Kansas pageant at the age of 17—the youngest allowable age for a Miss Kansas participant—and was a top 10 finalist.

Last year Lesley won first runner-up in the Miss Kansas pageant. When the 1996 Miss Kansas, Tara Holland, relinquished her crown after winning the title of Miss America, Moss passed up the chance to take Holland's place, because she wanted to compete for the title again.

Growing up on a farm 3 miles north of Hoxie, Lesley realized that there is a special sense of community throughout rural Kansas.

Lesley developed an original program called Project L.E.A.D. (Learning what leadership is, Exercising personal leadership skills, Acting in collaboration with others, Devoting time and energy into community service) which encourages leadership through volunteerism within schools and communities of all sizes. As Miss Kansas, Lesley will promote leadership to thousands of students at over 200 schools this year. Project L.E.A.D. will also be her platform when she represents Kansas at the Miss America pageant in September.

Mr. President, I am proud of Lesley's commitment to improve the lives of Kansans and commend her for the perseverance and dedication it took to win the title of Miss Kansas. I wish her the best as she travels our great State promoting community leadership in the 21st century.•

WHAT IS RIGHT FOR MEDICARE

• Mr. DORGAN. Mr. President, earlier this week, the Senate voted on a reconciliation bill that will make some of the most significant changes in the 30-year history of the Medicare Program, and I want to explain to my colleagues and constituents why I opposed the Senate's bill.

I opposed the bill with some regret, because, for the most part, it reflects the bipartisan budget agreement, which I have supported. For example, I voted for the bipartisan budget resolution earlier this month. That plan requires the Congress to pass legislation to cut the deficit by just over $200 billion over the next 5 years, with about $115 billion of that deficit reduction to come from slowing down the rate of growth of Medicare. So I am not unwilling to vote for restraining Medicare spending in order to reduce the deficit.

We must put this country on track toward a balanced budget while ensuring the health and stability of the Medicare Program. Doing so requires that we limit the rate of growth of the Medicare Program. The Medicare Program has been growing at a rate of about 10 percent a year, a rate of growth that the country cannot sustain, especially once the baby boomer generation begins retiring and putting additional financial stress on the program.

I had hoped to support the Senate's bill. In fact, the bill includes many items I have supported for a long time, including expanding Medicare's coverage for preventive benefits, expanding the health plan options available to seniors in North Dakota and across the country, and other changes to improve access to health care in rural areas and strengthen our ability to fight fraud and abuse in the program. I voted for a substitute Medicare package offered by Senator REED that included these provisions but did not include the more controversial provisions found in the Senate bill. Most notably, the Reed substitute, like the Senate bill, would have extended the life of the Medicare trust fund for 10 more years, but would have done so without asking Medicare beneficiaries to pay significantly more for their health care and without knocking a number of seniors out of the Medicare Program.

Unfortunately, in several extremely important areas, this bill did not abide by the bipartisan budget agreement achieved during months of negotiations this spring. The Senate bill abandoned this approach by including several provisions that will result in significantly higher out-of-pocket health care expenses for our Nation's older Americans.

The Senate bill included two significant structural changes—an increase in the Medicare eligibility age from 65 to 67 and a means test for the Medicare part B premium paid by upper income older Americans. I voted to strike these provisions from the Senate bill because I think it is inappropriate to make these kinds of central changes to the Medicare Program on the spending side of the budget ledger in order to make room for larger tax cuts on the tax side of the ledger. It is my view that changes made to Medicare should be made for the purpose of strengthening the program—not to provide room for tax cuts, the bulk of which will go to upper income earners in this country. Let's keep Medicare healthy and our older Americans healthy as well.

Why in this bill was it proposed that we ask seniors who make more than $50,000 to pay higher prices for their Medicare policies so that investors who make $500,000 or more could be given tax cuts? There is no denying a direct connection when the Medicare changes were proposed in the context of reconciliation legislation that includes tax cuts. In this reconciliation process, the act of achieving Medicare savings was intertwined with the desire for tax cuts on the revenue side.

There are some signs of reasonableness in this bill. For example, I support this bill's creation of a national, bipartisan commission charged with making recommendations to Congress on the long-term changes necessary to ensuring the extended solvency of the Medicare program. On the advice of this Commission we should confront the demographic changes facing our country over the next 30 to 40 years as the baby boomers retire and our Nation grays. The commission will have one year to study and report its recommendations to Congress. Let's hope that this process will ultimately result in a solid package of changes that the Congress will act on quickly.

With this package of recommendations on long-term solvency I am willing to consider basic structural changes to the program, including means testing and/or increasing the eligibility age if the following conditions are met.

First, if we consider increasing the eligibility age, we must be able to respond to the needs of the retirees between the ages of 65 and 67 who will still need affordable insurance coverage. The Senate bill does not consider this issue. It simply proposes to leave these folks uninsured. Already, the number of retirees with employer-provided health insurance has dropped 14 percent in the six years between 1988 to 1994, and every indication is that this trend would be exacerbated by raising the Medicare eligibility age. Most low- or even middle-income seniors in their mid-sixties will never be able to afford the premiums that will be assessed by the health insurance industry to cover people of that age.

Now, I voted in support of increasing the Social Security retirement age in 1983, as part of a plan to extend the solvency of the Social Security program well into the next century. But I do not agree with those who compare the increase in the eligibility age for Medicare to increasing the Social Security retirement age to 67. Under Social Security, seniors who need or choose to retire before age 67 will still have the option to do so, at a reduced benefit level. The ramifications are very different for increasing the Medicare eligibility age. Under the Senate bill, these seniors will not have an option for getting Medicare benefits before they turn 67 and many of them will become uninsured.

If we raise the Medicare eligibility age from 65 to 67, we must provide some means to guarantee the availability of affordable insurance coverage for the citizens in that age group. One of the issues the Medicare commission created by this bill is charged with studying is whether it is feasible to allow retirees who have not yet reached the eligibility age for Medicare to buy into the program. This idea deserves consideration before we act to increase the eligibility age.

With respect to means testing or income relating, as it is called in the Senate bill, I am willing to support means testing for Medicare, but again, only after careful consideration of the ramifications for the entire Medicare program and for the purpose of extending the solvency of Medicare, not as

part of a reconciliation bill that is designed to cut spending for the purpose of accommodating additional tax cuts.

One of the reasons that Medicare has such widespread support is because it provides health insurance coverage for virtually all older Americans. If through means testing we create an incentive for wealthier, healthier people to drop out of the program because they can get a better deal outside of Medicare, then we ought to at least understand and consider the ramifications of that.

There are other things about the Senate bill that create substantial new burdens on low- and moderate-income older Americans. Under this bill, seniors will be asked to pay significant new out-of-pocket costs. In North Dakota, 70 percent of our senior citizens have incomes under $15,000, and on average, they spend $2,500 for prescription drugs and other health care expenses not covered by Medicare or supplemental insurance. Many of these folks simply cannot afford to pay much more.

I am concerned about the new $5 copayment for home health visits. I voted to eliminate this new cost from the Senate bill. While $5 may not seem like a lot of money to many of us, a lot of the seniors who rely on home health care cannot afford this extra expense and might be forced to enter a hospital or nursing home at significantly greater cost to the Medicare and Medicaid programs.

This bill also erodes the protections that currently exist in Medicare which limit the amount doctors can charge Medicare beneficiaries above and beyond the Medicare-approved amount. This bill results in millions of dollars in new out-of-pocket costs.

The conferees on this bill have an opportunity to address these concerns and to drop troubling provisions from the bill, such as the means testing of the Medicare premium, the increase in the Medicare eligibility age, and the new home health care co-payment. Eliminating these provisions from the final bill would still lengthen the solvency of the Medicare program for 10 more years, and I hope the conference committee will take this action.●

TRIBUTE TO JESSE BROWN, SECRETARY OF VETERANS AFFAIRS

● Mr. ROCKEFELLER. Mr. President, the veterans' community is about to lose one of its best and strongest champions—Secretary of Veterans Affairs, Jesse Brown. After 4 years as the Secretary, Jesse Brown is retiring from Government service. He will be deeply missed by millions of veterans and their families, and everyone else who has had the good fortune of working with him.

Secretary Brown is one of the staunchest advocates the veterans' community has ever known. A veteran himself, injured during the Vietnam war, he articulated passionately and eloquently the needs of veterans, and the obligation of our Government to take care of those who served, often at great personal sacrifice. His oratory could move an audience to tears, and there was never any question but that his concern was genuine and sincere. He truly was a ''veterans' veteran,'' as he was often called, and he fought to the last to further and protect veterans' best interests.

Jesse Brown undertook an ambitious agenda as Secretary. Under his watch, the Veterans Health Administration was reorganized into 22 Veterans Integrated Service Networks [VISNs], the VA health care system began the transition from inpatient to outpatient care, the Veterans Benefits Administration moved to reduce its tremendous backlog of cases, and benefits were extended to Persian Gulf war veterans suffering from undiagnosed illnesses and Vietnam veterans' children born with spina bifida. Most significantly, he was tremendously successful in protecting his department from some of the deep budget cuts suffered by most other Federal agencies.

Secretary Brown's departure is a great loss. I wish him every success in the years ahead—and I have every confidence that he will succeed in whatever he undertakes.●

● Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to Jesse Brown, who will retire as Secretary of Veterans Affairs on July 1, 1997.

Since his appointment to this post on January 22, 1993, Secretary Brown has been the champion of our Nation's 26 million veterans. But his commitment to those who fought for this country began long before he accepted the awesome responsibility of heading the Federal Government's largest Department.

Secretary Brown's service in the Marine Corps formed the foundation for his strong commitment to veterans. He later worked for the Disabled American Veterans, where he was an advocate for the highest quality healthcare and benefits for veterans and their families. Secretary Brown translated his personal experiences into action as he accepted the charge of providing for those who have protected our country.

As a fellow veteran, I appreciate all of Secretary Brown's work on behalf of our Nation's veterans and their families. In the 4½ years since he accepted this challenging post, he has worked diligently to move the VA into the 21st century. His personal commitment to veterans has produced numerous accomplishments.

Secretary Brown has overseen the Department's first national summit on homeless veterans. He has worked to expand the Department's services to women veterans. And under his leadership, the VA has opened community based outpatient clinics, giving more veterans wider access to VA healthcare services. In all that he has done, his commitment to broadening veterans' access to the system has never faltered.

Throughout his service, Secretary Brown has gone out of his way to ensure that those who honorably served their country receive the attention, benefits, and services they deserve. Last year, Secretary Brown visited New Jersey, where he personally met with veterans to address their concerns about benefits and the VA healthcare system. After this meeting, numerous veterans from New Jersey contacted me to convey their appreciation for Secretary Brown's work on their behalf.

Mr. President, Secretary Brown's service to this country will be sorely missed. As a fellow veteran, I join all of the veterans in New Jersey and across the country in thanking him for his work and wishing him well in his future endeavors.●

TRIBUTE TO THE HONORABLE JESSE BROWN

● Mr. BRYAN. Mr. President, I rise today to recognize the innumerable contributions and outstanding leadership that have characterized the tenure of the Honorable Jesse Brown as the Secretary of Veterans Affairs. It is with great appreciation, as well as sadness, that I speak of his accomplishments today, as his term as the chief of the second-largest agency in the Federal Government will come to an end on the first of July. Under his guidance over the past 4½ years, the Department of Veterans Affairs has undergone some of the most fundamental changes in decades. In the past, such groundbreaking reforms and restructuring may have inspired fear on Capitol Hill and in veterans' facilities across the Nation, but with Jesse Brown at the helm, the Department has undergone a transformation with support, hard-earned at times, from both budget-cutters in Congress and from veterans across the country.

When Secretary Brown took office in 1993, he was faced with an outdated health-care delivery system stretched to its limits trying to maintain too many large, aging hospitals. The Secretary rose to the challenge by closing hospitals that did not serve their patients well and beginning an overhaul of the entire VA medical system into a network of 22 regional provider regions. Within these regions, increased attention is being given to the quality of care available as well as to outpatient services. These changes, which are still taking hold in many places, demonstrate the vision that Secretary Brown brought to his work; a vision of changing with the times, but never giving up on the primary focus of providing services to veterans.

Secretary Brown's unyielding drive to ensure that veterans have access to needed services is very important to Nevada, one of only two States in the Nation where the population of veterans is growing. While my State's problems are very different than those of a Northeastern or Midwestern State,

Secretary Brown took these differences into account and has been instrumental in helping Nevada be more responsive to the needs of the men and women who have served our country. The Department of Veterans Affairs has begun to reallocate its resources so that Federal funds are made available where veterans' needs are most critical. In southern Nevada, where approximately 118,000 veterans already crowd existing facilities, new projects will allow Nevada's veterans to access doctors, counselors, and other benefits to which they are entitled. The Secretary has helped Nevada's underserved veterans gain access to the services they deserve through his active support for efforts to construct and expand desperately needed medical facilities in southern Nevada. Secretary Brown has come to the aid of Nevada's veterans during crises, as well, stepping in to help find a solution when one of the VA facilities in Nevada faced administrative problems.

While I could go on much longer just discussing Secretary Brown's contributions to Nevada's veterans, I would be amiss if I did not mention the profound impact he has had on all American veterans and their families. He has tackled the most sensitive issues facing veterans, including his work to enact laws authorizing the VA to provide compensation and treatment for Persian Gulf war veterans' undiagnosed illnesses. He also expanded services to women veterans, which is evident at the new Addeliar D. Guy III Ambulatory Care center soon to open in Las Vegas. Finally, Secretary Brown confirmed the VA's commitment to all veterans in need by convening the first summit on the issues facing homeless veterans, and followed up on this by adding homeless programs to the services provided at VA medical centers. Again, this effort has a great impact in Las Vegas, where a large number of homeless veterans have needs that have, until now, largely gone unmet. With the help of the Department of Veterans' Affairs, however, Las Vegas will soon boast a new initiative that joins hands with the city and county to provide assistance to the homeless veterans in Las Vegas.

Mr. President, I have only touched upon a few of the many positive changes and initiatives launched by Secretary Brown, and I have not even made mention of his previous service to his country as a soldier in Vietnam or as the director of the Washington office of the Disabled American Veterans. I am sure that Secretary Brown will continue to make this world more livable and more enjoyable for veterans in whatever challenges he pursues in the future, buoyed by his commitment to ''putting veterans first.'' Whether guaranteeing a home loan for a veteran just returned from a tour overseas, streamlining health care procedures at a local walk-in clinic, or intervening to prevent the eviction of elderly VA nursing home residents, Jesse Brown has proven that he, and the agency he led, do indeed put veterans first. When he announced his resignation, Secretary Brown said he wanted to be remembered as ''someone who made a difference in the quality of veterans' lives.'' I speak for the veterans of Nevada, and across the country, when I say that Jesse Brown will be remembered not only for improving veterans' access to needed benefits, but also for leading this agency with skill, with compassion, and most of all with an appreciation for the noble service of our Nation's veterans.●

BALANCED BUDGET ACT OF 1997

AMENDMENT NO. 450

● Mr. WELLSTONE. Mr. President, I am pleased to join my colleague in offering this amendment.

Last year during the welfare reform debate, as part of the effort to balance the budget, the 104th Congress made dramatic cuts to programs for low-income families. According to the Center on Budget and Policy Priorities, more than 93 percent of the cuts in entitlement programs in the 104th Congress came from programs for low-income people. Congress reduced entitlement programs by $65.6 billion over the period from 1996 to 2002.

I am deeply concerned about the extent to which legal immigrants are being harmed under the Welfare Reform act. The Act cut $22 billion in services to legal immigrants—a full 44 percent of the overall legislation.

The House Ways and Means Committee reconciliation mark provided the least generous allocation of funding for legal immigrants as compared to the budget agreement and the Senate Finance Committee mark. The $9 billion allocation in the Ways and Means mark violates the budget agreement, and it covers fewer people. Since it does not cover those who, in the future, could be eligible for SSI assistance, it will leave many without any means of support. According to the Social Security Administration, 125,000 fewer people will be served by the House agreement compared to the Budget Agreement. In Minnesota it puts 1,145 elderly immigrants at risk of losing benefits.

Moreover, it puts an additional 161,000 people at risk of losing their benefits because their citizenship is unknown or difficult to prove. Probably the worst provision in this agreement is that it makes an inhumane and irrational distinction among disabled people based on an arbitrary date on the calendar. If you were disabled and receiving SSI on August 22, 1996, then you retain eligibility. If not, there is no hope for receiving future benefits.

The Durbin/Wellstone amendment restores food stamp benefits to legal immigrant families with children 18 years old and under at a cost of $750 million over 5 years. Our offset is achieved by placing limits on the amount of Federal money that States can use to offset their cost share requirements in the food stamp and Medicaid programs. Our amendment would take a small step toward addressing the use of these funds and target the savings into food stamp benefits for legal immigrants who have dependent children. Over 5 years, we hope to save $1 billion, which fully covers the cost of restoring food stamp benefits.

Unlike other low-income families in this country, legal immigrants are banned from receiving food stamp benefits. Food stamps are the Nation's largest and most successful food assistance program and cuts to this program made up half of the savings in last year's welfare reform effort. According to CBO, 17 percent of the immigrants receiving food stamps are children. This means more than 150,000 children have lost access to this critical program. In Minnesota roughly 15,900 individuals are expected to lose food stamp benefits. According to INS, most of these immigrant families will naturalize within 10 years, making them eligible to apply for food stamps. CBO estimates that it will cost $750 million to restore food stamp benefits for children 18 years and under. Senator DURBIN and I have provided an offset that achieves that amount over 5 years. No matter what your position on the overall budget deal, you must agree that no purpose is served by denying children food.

According to the Food Research and Action Center, approximately 13.6 million children under age 12 are at risk of hunger during some part of the year. FRAC reports that although families who face real issues of hunger may not be hungry every day of the month, or even every month of the year, the hunger affecting most low-income families is not a one-time or infrequent occurrence. It is characterized—and this is according to FRAC—by food shortages and chronic insecurity about whether the family will have enough food.

We are now benefiting from scientific research that points to the significance of the early years on development of the brain. A consistently nutritious diet is one of the most important if not the most important ingredient to a child reaching his or her potential. In a 1995 study entitled Community Childhood Hunger Identification Project; a Survey of Childhood Hunger in the United States, FRAC determined that undernourished children suffer from two to four times as many health problems. I quote from the survey:

Hungry children are more likely to be ill and absent from school.

The infant mortality rate is closely linked to inadequate quantity or quality in the diet of the infant's mother.

Iron deficiency anemia in children can lead to adverse health effects such as developmental and behavioral disturbances that can affect children's ability to learn and to read or do mathematics. According to the Centers for Disease Control, anemia remains a significant health problem among low-income children.

Hungry children are less likely to interact with other people or to explore or learn from their surroundings. This interferes with their ability to learn from a very early age.

According to the Tufts University Center on Hunger, Poverty and Nutrition Policy, evidence from recent research about child nutrition shows that, in addition to having a detrimental effect on the cognitive development of children, undernutrition results in lost knowledge, brainpower, and productivity.

Hunger and insecurity about whether a family will be able to obtain enough food to avoid hunger, also have an emotional impact on children and their parents. Anxiety, negative feelings about self-worth, and hostility toward the outside world can result from chronic hunger and food insecurity.

The food stamp is designed to reach those families most in need and there is plenty of evidence that the children most at risk of hunger are in poor or low-income families. A 1996-study reported about 6.1 million children under 6 were living in poverty in 1994. An additional 4.8 million young children lived near the poverty line, according to Columbia University's National Center for Children in Poverty. Sixty-two percent of poor children lived with at least one parent or relative who worked. Fewer than one-third of the children's families relied exclusively on welfare. The poverty rate grew fastest among Hispanic children, rising 43 percent since 1979, compared with a 38-percent rise among white children and 19 percent among black children.

Last year's reform banned legal immigrant families with dependent children from food stamp benefits. This amendment is about restoring critical food assistance to those children. We cannot say we are for children and then turn our backs on legal immigrant children. This amendment is reasonable. It's paid for and it makes imminent sense.●

DECISION STRIKING DOWN PART OF BRADY LAW

● Mr. KOHL. Mr. President, I rise to discuss today's Brady law decision, in which a deeply divided Supreme Court put judicial activism over public safety. At a time when the United States leads the world in gun carnage, surely the Federal Government is entitled to enlist the aid of States to keep guns out of the hands of felons, illegal immigrants, and the criminally insane. Asking local police to conduct background checks—and nothing more—hardly amounts to a Federal power grab, as the majority has claimed. Instead, the majority's opinion should make us fear what the Supreme Court could do next.

Will the Court prohibit Congress from requiring States to report missing children? Will it bar Congress from requiring states to get lead out of school drinking water? Will it stop Congress from requiring States to publicly disclose where hazardous waste is being stored?

All of these requirements are now current law, and all of them are now in peril.

We will have to consider these troubling issues in the future. But as for today, this decision alone is hardly a fatal blow to the Brady law itself. Since its enactment, Brady background checks have stopped over 186,000 persons from obtaining guns. And these Brady checks will continue for two reasons. First, virtually all of the police officers we have spoken to say they will continue to do the Brady check voluntarily—even if they are not required to do so. The reason why is simple: they know these checks save lives. Second, the provision struck down by the Court only relates to the so-called interim Brady law. By the end of next year, Brady requires that a permanent instant check system be implemented. And that system, operated by Federal officials, will be immune from constitutional challenge.

Still, the Supreme Court's misguided decision opens up the possibility that, before the instant check system becomes fully operational, a handful of rogue police officers will refuse to do background checks. As a result of such inaction, at least a few felons will commit violent crimes with guns they never should have been able to obtain.

For this reason, we are working with the President to draft legislation that will ensure 100 percent Brady compliance—for example, by allowing gun dealers to obtain background checks from any police chief in their State, not just the chief in the jurisdiction where the buyer resides. Because the vast majority of police will continue to conduct Brady checks voluntarily, this approach will clearly preserve our no check, no sale policy.

Mr. President, today's Supreme Court ruling, while unfortunate, does not take away from how effective the Brady law has been or will be. But it is nevertheless a bad decision that will hurt us in our fight against crime. We'll introduce bipartisan legislation to fix it, and I hope my colleagues will support our efforts.●

GARRETT RUSSELL

● Mr. LEVIN. Mr. President, I rise today to recognize the achievements of a remarkable young man from the city of Midland, MI. Garrett Russell, an 8-year-old second grade student at Siebert Elementary School, collected more than 100 bicycles and $25,000 worth of toys to give to victims of the flooding in Grand Forks, ND.

When Garrett saw footage of the flooding he was immediately moved into action. He asked his classmates to help him provide toys to the thousands of the children in Grand Forks who were forced to leave their belongings behind as they fled from their homes. Word of Garrett's ''Kids Helping Kids'' campaign spread quickly and caught the imagination of the generous people of the Tri-City area. Donations arrived daily, reaching a total of more than 3,000 toys and 100 bicycles.

Garrett, his sister Elise, and his parents, Dean and Kathy Russell, loaded the toys into a truck and drove to Grand Forks to distribute them to the children there. Lutheran Social Services of Grand Forks held a festival on Saturday, June 14, 1997, at which Garrett gave away most of the toys to the 1,200 children who attended. The following day, Garrett and his family gave the rest of the toys away as they visited the homes of families who had lost almost everything they owned.

Garrett has received praise from many people since he began his campaign to brighten the spirits of the children of Grand Forks, especially from his classmates and from the people who benefited from his endeavors. The Midland Daily News quoted his friend, 7-year-old Anna Brown, who said, ''I think it was generous of him because most kids don't start a campaign just because they see something on the news.'' Grand Forks resident Judy Holweger, whose son, Joel, received a bicycle at the festival, said, ''It really lifts these kids' spirits. They've lost a lot.'' Garrett's schoolmate, Claire Liang, may have put it best when she said, ''Not everyone has a big heart like Garrett.''

We can all take inspiration from Garrett Russell's example of generosity and selflessness. I know my colleagues join me in commending Garrett for his outstanding accomplishments, and in wishing the people of Grand Forks, as well as all those affected by the flooding this spring, a speedy and complete recovery.●

KIRSTEN FROHNMAYER

● Mr. SMITH of Oregon. Mr. President, I rise today to pay tribute to the remarkable life of Kirsten Frohnmayer. Kirsten, the daughter of University of Oregon president Dave Frohnmayer and his wife Lynn, died last week after a courageous battle with Fanconi anemia, a rare genetic disease that also claimed the life of her sister, Katie.

Kirsten lived much of her 24 years on Earth with the knowledge that she was battling a vicious disease. Yet she never gave up, and she never allowed herself to wallow in despair. Rather, as her family and friends have testified, she maintained an optimistic spirit that inspired countless men, women, and children. Kirsten also willingly volunteered to undergo experimental medical procedures, in hopes that others with the same disease might benefit from what doctors learned through the procedure.

Mr. President, the Eugene Register Guard recently published an eloquent tribute to Kirsten which contains her own inspiring words. I ask that this tribute be printed in the RECORD immediately following my remarks.

Mr. President, let me conclude by simply saying that the entire State of Oregon joins with me in extending our thoughts and prayers to the entire Frohnmayer family.

The tribute follows:

[From the Eugene Register Guard, June 23, 1997]

KIRSTEN

In her graduation speech at South Eugene High School six years ago this month, Kirsten Frohnmayer said: ''My family jokes that by having this serious health problem, we provide an important community service. We remind people that things in their own lives may not be as bad as they seem.''

That was no joke. Following the joys and sorrows of the Frohnmayer family has been a community activity here for more than two decades. Their lives are at least more instructive than soap operas. Kirsten's own story, her cheerfully determined battle against a mysterious disease with a strange name and a lethal record, has been particularly gripping.

But not all stories have happy endings. This one is particularly sad because all of us were rooting so hard, hoping against hope. The community genuinely grieves with the Frohnmayers, as in some degree does the whole state.

At 24, mentally and spiritually Kirsten had done more living than many people twice her age. She had an immense capacity for life. Partly because of her disease, she had a keen appreciation for each day's possibilities.

Her positive outlook calls to mind the obituary editorial famed Kansas editor William Allen White wrote 76 years ago after his own 16-year-old daughter was killed in a freak riding accident: ''Her humor was a continual bubble of joy. . . . No angel was Mary White, but an easy girl to live with, for she never nursed a grouch five minutes in her life.''

On the list of personal tragedies to which humankind is vulnerable, the death of a child must rank at the top. It does not matter whether the child is struck by a limb while riding her horse or is worn down over many years and finally defeated by a vicious disease; the loss is tremendously hard to bear.

Hearts go out to David and Lynn Frohnmayer and to Kirsten's three remaining siblings. But we know, too, that they will manage, because they are blessed with intelligence and strength of spirit—and because they understand the wisdom of what Kirsten told her classmates at the close of her remarks in 1991:

''A final thought I'd like to share with you tonight is my belief that sometimes we should live for the day. Too often life consists of anticipation of the future or regrets about the past. But we can't change the past, and we don't know what the future will hold. So, at least some of the time, we should concentrate on the present. Whatever path you've chosen, whether you're talking about college, a job, volunteer work, or family, you're talking about life and life must be fun. Find the fun in life, for as Ferris Bueller said on his day off, 'life moves pretty fast, and if you don't stop and look around once in a while, you are going to miss it.'

''So . . . I hope that you will remember to appreciate and protect what you have, be optimistic and constructive in the face of adversity, and stop to smell the roses. Good night and good luck.''●

TAX RELIEF FOR WORKING FAMILIES

● Mrs. MURRAY. Mr. President, today the Senate completed action on S. 949, the Revenue Reconciliation Act of 1997, legislation implementing the tax relief provisions from the historic bipartisan balanced budget agreement. I support this legislation because it does provide real tax relief and adheres to the balanced budget agreement, which we worked hard to achieve. American families need this tax relief and they need our continued commitment to a balanced budget.

I have listened to the concerns of many of my colleagues regarding this legislation and the benefits for working families. There is no disputing the fact that this legislation does benefit upper income families, but it also benefits working families and the tax cuts are not at the expense of vital, investment programs. I have heard a great deal about the inequities in this legislation and I supported the Daschle substitute which would have eliminated many of these inequities. But, I do think it is unfair to make the criticism without examining the entire balanced budget agreement and the tax relief adopted in 1993 for struggling, working families. The bottom line is that working families will benefit from estate tax relief, capital gains tax reductions, education investment tax credits, a per child tax credit and expanded IRAs.

Beyond taxes, my colleagues must remember that the balanced budget agreement was not only about tax relief, but it was also about helping working families by allocating additional resources for health care, education, environmental protection, and nutritional assistance. It also protected Social Security and Medicare for our Nation's senior citizens. Before weighing any inequities, let's make sure we examine the complete picture.

The balanced budget agreement, which this body adopted on June 5, 1997, calls for a significant investment in education. The agreement assumes additional Federal funding for important programs aimed at improving access to quality education for our children. I can assure my colleagues that working families will benefit from improved educational opportunities for their children. Quality education is one of the major priorities for many of the constituents that I talk to in Washington State. And again, there are education tax incentives which will help middle class working families who are facing escalating tuition and higher education costs. The Hope tax credits and the permanent extension of section 127 employer-provided educational assistance tax exemption are the kind of tax relief that my constituents have endorsed.

There is no doubt that this legislation can and should be perfected. We can work to target more relief to the middle class and I will be seeking these changes in conference. I am also hopeful we guarantee that these tax cuts do not result in an explosion in the deficit. I will not sit by and watch our deficit run out of control. When I first came to the Senate in 1993, the deficit was close to $300 billion annually. For 1997, the Congressional Budget Office has estimated that our deficit could be as low as $70 billion. This was not done without some pain and sacrifice. It is imperative that we stay the course and maintain a balanced budget well after 2002.

Now that the Senate has completed action on part II of the budget agreement, I sincerely hope that every effort will be made to correct the problems with S. 947, the spending reconciliation legislation. The Medicare provisions added by the Senate Finance Committee go well beyond protecting Medicare and will jeopardize access to health care for millions of low income senior citizens. I supported a balanced budget agreement that included constraints on spending and tax relief. It is imperative that we enact both parts of the bi-partisan balanced budget agreement, and I will be making every effort to improve S. 947 in conference and I will continue to oppose efforts that seek to undermine the historic, bipartisan balanced budget agreement.●

HAPPY FOURTH OF JULY HOLIDAY

● Mr. BENNETT. Mr. President, as we prepare to celebrate America's national holiday, I would like to take a moment and pay tribute to the founders of our country. James Madison, in particular, is one of my heroes. I didn't know much about James Madison until I went to college. I went to the University of Utah and majored in political science. I became acquainted with James Madison under the direction of G. Homer Durham, who was chairman of the political science department at the University of Utah. He had a very radical notion about education. He said the most important course in the political science department was political science 1. And he said, ''Since I am the department head it follows that I should teach the department's most important course.'' So as an 18-year-old freshman I sat at the feet of Homer Durham and learned about the Constitution and James Madison. I read the Federalist Papers and began a lifelong love affair with political theory and particularly the political theory that undergirds America starting with Thomas Jefferson, James Madison, and the Constitutional Convention.

As we approach the Fourth of July holiday, I am reminded of another important item which we all cherish: the American flag. The flag of the United States is a unique symbol of national unity and represents the values of liberty, justice, and equality that make this Nation an example unmatched throughout the world. The American flag is recognized around the world as an icon of freedom, representing all that we hold dear as citizens of the United States. This preeminent symbol of our Nation has flown in every conflict where American blood has been threatened and shed, and will always deserve our unbending respect and protection.

I rise today to support a bill which protects these two sacred items: the Constitution and the American flag.

Many of my Republican colleagues advocate passing a constitutional amendment to prohibit flag desecration. I admire and agree with their intent to show proper respect to our flag, but I disagree with their belief that a new constitutional amendment banning flag burning is the best way to protect the flag and punish flag burners. To this end I, along with Senator MCCONNELL, introduce legislation which will successfully and legally prevent the desecration of our national symbol.

Our bill provides for the imprisonment and fining of those who damage an American flag intending to incite a breach of the peace. It also punishes anyone who steals a flag belonging to the Federal Government or a flag displayed on Federal property. In a review of our bill, senior constitutional legal experts at the U.S. Library of Congress stated that if enacted, the bill would withstand Supreme Court constitutional scrutiny. I agree with this analysis and believe it is possible to punish the despicable behavior of flag desecration, while still preserving the stability of a document that has served us well for over 200 years.

With these comments, I wish my colleagues a happy Fourth of July holiday. May we always remember the liberties and blessings which are ours due to the sacrifice and inspiration of our American patriots.●

HONG KONG REVERSION

● Mr. GLENN. Mr. President, next week the eyes of the world will be focused on Hong Kong when the British dependent territory reverts to Chinese control. The end result of a negotiated agreement between the United Kingdom and China, the reversion itself is widely accepted and not a matter of controversy. Nevertheless, how China will handle the dynamic and thriving territory of Hong Kong in the near and longer term future is a matter of great interest, and of considerable difference of opinion.

I count myself among those who are cautiously, I underscore cautiously, optimistic about the future of Hong Kong. The principle reason for my cautious optimism is a belief that, in this area, China will be guided primarily by consideration of its economic self interest. Many have likened Hong Kong to the goose that laid the golden egg. That characterization is well deserved. Simply put, China has an enormous stake in continued economic growth and prosperity in Hong Kong. Over the last several years, economic growth in Hong Kong has averaged 5 to 6 percent a year; Hong Kong is now the eighth largest trader in the world; and its GDP of almost $24,000 per capita exceeds that of several western industrialized nations. Hong Kong is an international business and financial center. The Hong Kong and Chinese economies are already intertwined and codependent. Hong Kong is a source of substantial investment in China and a conduit for Chinese exports around the world.

To a large extent the Chinese leadership has staked its legitimacy and its future on the ability to bring growth to China's economy and an improving standard of living to its people. Over the next 5 years China will have to find jobs for an estimated 216 million new or displaced workers. Reason would argue that China simply cannot afford to substantially tamper with the economic growth engine that is Hong Kong.

In addition to the negative economic consequences of mishandling the Hong Kong reversion, China has other incentives to try hard to make things work. China has advertised the Hong Kong one country-two systems principle as a model for any potential future discussions on reunification of Taiwan with the mainland. While it's still unclear whether or not this is even a feasible proposition, you can be sure if things do not go well in Hong Kong, any possibility of talks with Taiwan on reunification will continue to remain remote for the foreseeable future. Finally, the success or failure of the Hong Kong transition will have a substantial impact on United States-Chinese bilateral relations, as well as on the worldwide perception of China.

Having outlined the reasons for my optimism, I must now explain why I temper that optimism with a healthy dose of caution. I am not sure, Mr. President, that the leadership in Beijing understands what it takes to nurture the robust and thriving socioeconomic system of Hong Kong, particularly the relationship between the political and economic spheres. I am not sure that the Chinese leadership will necessarily favor their economic interests over political or perceived security interests, if the two sets of interests collide.

The record of the period of preparation for reversion is mixed. Hong Kong continues to thrive economically and business confidence remains high. China has agreed to Hong Kong's continued membership in international institutions as a separate entity and to the continuation of Hong Kong's experienced and professional civil service. On the other hand, China's decision to replace the elected legislature, Legco, with an appointed provisional legislature and certain statements by Chinese officials concerning definition of freedom of the press have caused considerable unease among Hong Kong's democratic political organizations, in the United States and in Britain.

The great unanswered question is whether the Chinese leadership will be willing and able to effectively implement the one country-two systems model, preserving Hong Kong's economic prosperity as well as the political freedoms the people began to enjoy under British rule. If alternatively, they begin to roll back the political freedoms and individual liberties, in my view, the economy will not be immune, and they may well end up sacrificing that fabled golden goose.

We may not know the answer to that question for several years. As I said earlier, the eyes of the world will be on Hong Kong next week. But, those eyes will not be taken off Hong Kong on July 2. You can be sure the world will continue to watch China's stewardship of Hong Kong with intense interest for many years.

And, we shouldn't just watch. The United States should do everything it can to support the people of Hong Kong. The United States should encourage China to see and understand that its own interests are best served by maintaining true autonomy for Hong Kong. Anything less would be a failure.●

WILL ISEA PART WAYS WITH THE NEA?

Mr. GRASSLEY. Mr. President, I know that all of us agree there is no greater national treasure this Nation has than our children. Nurturing and encouraging them to live up to their potential is one of the most important things we can do. That is why our educational system must be the best it can be and our Nation's educators must be the best they can be. But there is something that I believe all the members of congress need to be aware of because it may have a profound and lasting effect on educators throughout the country. I am referring to the ongoing merger talks between the National Education Association and the American Federation of Teachers.

This matter is of prime importance to NEA members across the United States and I know it is of tremendous importance to the Iowa State Education Association. It is disturbing that many members of the NEA are not aware of this because this is not just joining of two teachers' organizations. Given the AFT's affiliation with the AFL–CIO and the apparent willingness of the NEA to accede to the demands of the AFT. Should the merger go through, this new organization would be a member of the AFL–CIO, which could have tremendous policy implications for the largest organization representing educators. For that reason, I urge other members of congress to read the article I am submitting for consideration.

The article follows:

WILL ISEA PART WAYS WITH THE NEA?

(By James Flansburg)

The Iowa State Education Association is thinking about dropping its affiliation with the National Education Association.

At ISEA's annual meeting in Ames in early April, a number of members said they fear that the NEA is moving toward a militant unionism that could severely harm professionalism in teaching.

The course being followed by the NEA would take away the independence of local and State affiliates, while, at the same time, putting them deeply into partisan politics and formal efforts to control local school boards and policies.

ISEA represents about 35,000 Iowa teachers, and a vast majority of them have misgivings over terms of a proposed merger between NEA and the late Albert Shanker's American Federation of Teachers, AFL–CIO.

Critics of the proposed merger contend that, more than an endeavor to improve the lot of teachers, it's a surreptitious effort aimed at strengthening the labor movement and rebuilding the Democratic Party.

NEA has a membership of about 2.2 million and AFT about 800,000, but the merger terms being pushed by NEA's national leaders endorse AFT's way of doing business instead of the more moderate approach of the traditional NEA.

An indication of that came in a February speech by NEA President Robert Chase at a National Press Club luncheon.

''I came here this afternoon to introduce the new National Education Association—the new union we are striving to create in public education,'' he said.

Chase called for ''building an entirely new union-management relationship in public education.''

No one knows more than teachers what schools need, he said: ''higher academic standards; stricter discipline; an end to social promotions; less bureaucracy; more resources where they count, in the classroom; schools that are richly connected to parents and to the communities that surround them.''

''To this end,'' he continued ''we aim not so much to redirect the NEA, as to reinvent it.

''The new direction . . . is about action. It is about changing how each of our local affiliates does business, changing how they bargain, changing what issues they put on the table, changing the ways they help their members to become the best teachers they can be.''

The union's goal? ''An agreement that allows teachers, in effect, to co-manage the school district.''

Terms of the NEA–AFT merger would make the new organization a member of the AFL–CIO, with the power to override the concerns of local and State affiliates.

Such things as student welfare and professional teachers' concerns and local school conditions could be lost in the dust of battle over union politics, local and national, and wages, hours and working conditions.

Local concerns would come behind the union's national priorities. A community might find itself held hostage by national union goals that have nothing to do with the community itself.

The new national organization would have the power to take control of local and state organizations for refusing to follow the national organization's policy and political lines.

In effect, it would have the power to trample the professional and ethical considerations that have led the huge majority of teachers in Iowa and the nation to join a professional association such as ISEA rather than a local of the AFT.

The Iowa and New Jersey state affiliates of NEA have been the most vocal critics of the merger terms, which seem basically dictated by the AFT's power sources in New York and other big urban centers.

Although a substantial majority of teachers across the country may oppose merger terms, top NEA officials and staffers have the power to bring it off.

That's because a number of state organizations are financially dependent on NEA and have little choice except to do its bidding.

ISEA, in contrast, is not financially dependent on NEA. But it might have to drop its affiliation with NEA to avoid being taken over by the newly merged organization.

So the ISEA has no alternative but to think about and start making contingency plans to cancel its NEA affiliation.

The details of that dominated a number of private discussions at the ISEA's delegate assembly at the Hilton Coliseum at Ames in April.

In most places, the merger seems a well-kept secret.

The idea is to keep the implications of the merger from the teachers in the states where local organizations and their leaders are beholden to NEA and AFT leaders.

ISEA has kept Iowa teachers up to date on the merger talks, and has advocated that other state organizations mirror the effort.

''The more information that comes out on the proposed merger, the more the membership seems disinclined to do it,'' said one person who has been following the merger talks.

It's probably not hard to find people who would dismiss all this as intramural arm wrestling between two unions.

That may well be. For the public, it may not make any difference which view prevails.

I've fought with ISEA over the years, and have been soundly denounced by dozens of teachers for dismissing it as little more than a trade union.

Whatever. If I were an Iowa teacher, I'd be against the merger because it surely would take away all hopes of the organization ever becoming a professional association that cared about anything except wages and hours.

On a practical basis, moreover, a merger would take away the implicit threat that many teachers' groups now are able to use.

Deal with the moderate ISEA or its equivalent, they lead the school boards and others to believe, or you may end up with the bloodletting unionism of the AFT.

On the other hand, I'd choose the AFT's militance before I'd relegate Iowa teachers to the kind of second-class citizenship—lots of respect and no money and no say about their working conditions—they suffered under before they acquired the ability to collectively bargain with the school districts about 25 years ago.●

THE BALANCED BUDGET ACT OF 1997 AND MEDICARE

● Mr. DODD. Mr. President, with Wednesday's passage of the Balanced Budget Act of 1997, the Senate with some trepidation, has taken a number of courageous steps toward ensuring long-term solvency of the Medicare Program.

Specifically, I believe that the adoption of means testing of Medicare premiums moves us in the right direction toward the long-term solvency of this critically important program. It is important to remember that this provision will affect only those seniors with individual annual incomes over $50,000 and married seniors with incomes above $75,000, on a sliding-scale basis. While some tried to portray this provision as a retreat from protecting our Nation's seniors, I view it as a step toward ensuring that our seniors will be well served for a long time to come. The adoption of this provision simply says that those Americans who can afford to contribute a little more for their health care should do so. Such a measure is surely needed if we are to sustain the safety net that Medicare provides to millions of senior citizens.

While I supported that particular part of the bill, I must share my deep concern over other provisions that I feel go too far. I find particularly unacceptable the provision which will raise the age at which individuals are eligible to receive Medicare from 65 to 67. The likelihood of these seniors finding affordable private insurance is slim—many will be forced to forego coverage. At a time when the number of uninsured individuals in this country is growing and employer-sponsored insurance is declining, I find it astonishing that some would choose to exacerbate the current problem further with this measure.

I also opposed a provision that will require the poorest and sickest seniors to pay up to $700 a year in home health costs. One-quarter of the home health users are over 85; 43 percent have incomes below $10,000. Forcing the most vulnerable Medicare beneficiaries to bear this significant financial burden under the guise of addressing the long-term financial challenges of this program is indefensible.

Because of these concerns, I was unable to support this bill. It is my sincere hope, however, that these issues will be resolved in conference and that ultimately we will pass into law a measure that truly will protect our Nation's seniors and the vital safety net that Medicare provides to them.●

AN INDEPENDENCE DAY TRIBUTE

● Mr. SESSIONS. Mr. President, I rise today so that this great body may momentarily reflect upon the importance of our upcoming Fourth of July celebration.

Over 200 years ago, this country began a historic experiment. Our Founding Fathers were told it would fail. Yet, after many trials and tribulations, the United States of America stands, it can fairly be argued, as the greatest Nation in the history of the world. Independence Day is our annual celebration of this achievement.

Yet, we must have the courage and honesty to admit that we are not all that we hope to be. We have much work to do, and we have many dreams to make a reality. This is our American journey. And let us not forget the debt we owe to those who sacrificed to make this journey possible, the men and women who have stood sentry as our country marched to greatness. Today, they protect the finest democracy the world has ever known and keep watch around the globe. They are a beacon of hope, freedom, and justice to all the world's nations. Today, we trumpet the personal courage of our forefathers and the continuing sacrifices of the members of our armed services.

Who are these veterans and service members? We all know them. He was your friend in school. She was the kid next door. You go to church with them, and you pass them in the grocery store. They are Americans just like you and

me, but when our Nation called, they willingly put themselves in harm's way. We asked them to serve their country and they obliged us. They have made this celebration possible.

Many of these regular Americans found themselves in extraordinary circumstances. They were only expected to do their duty, but they found the strength to do more. It is for these uncommon displays of valor that we have reserved the Congressional Medal of Honor. It is the highest honor which we can bestow on a member of the Armed Forces, and it is but a small demonstration of our gratitude for their acting above and beyond the call of duty.

The men who have earned this award do not ask for recognition or acclaim. They believe they were only doing their jobs. They consider themselves ordinary soldiers, sailors, and airmen. But, we call them heroes. I dedicate this day to them, and I humbly thank them for their special sacrifice to guarantee the privileges we too often take for granted.

I am proud to say that Alabama is home to 27 of these great Americans. Seven of these Alabama Congressional Medal of Honor winners are still alive today. Henry Eugene ''Red'' Erwin, Robert Lewis Howard, William Robert Lawley, Jr., Ola Lee Mize, Michael J. Novolsel, James Michael Sprayberry, and Harold Edward ''Speedy'' Wilson all have different heroic tales but common heroic traits. They steeled themselves with tremendous gallantry and fought without regard for their safety. From where did this courage come? For some, it was their loyalty to a fellow serviceman. For others, it was the strength of their convictions. And most certainly, it was done with God's help.

Let us today take a moment to congratulate each veteran we know for a job well done and come before them with a spirit of the humblest gratitude as we enjoy the bounty of this great, independent Nation. For we are the Nation that people in every corner of the world wish to call their own. We are a people who will not stop short of greatness, a nation who earns her prosperity with the labor of her citizens, and the land of opportunity whose hand extends for both rich and poor alike. We need not only be proud of our veterans but also of every citizen who holds the same ideals and dreams for America. She is great because of the businessmen who fuel her economy, the religious leaders who guide her morals, the farmers who provide her bountiful sustenance, and the many other Americans who are free to fulfill their dreams each day.

God bless those who have stood and fought on her behalf and, most of all, God bless America.

TRIBUTE TO JAMES S. TODD, M.D.

• Mr. FRIST. Mr. President, today, I rise to pay tribute to Dr. James S. Todd, executive vice president and chief executive officer of the American Medical Association from 1990 until 1996.

Dr. Todd was a dynamic leader and advocate for physicians and patients throughout the country. His advice and example were invaluable to lawmakers in Washington and to his peers throughout the Nation.

He steered the AMA through a time of stress and change in American medicine, and made great strides in preparing the AMA to lead the medical profession into the next century. But, more than anything, Dr. Todd loved his profession. He called medicine ''the most demanding, regarding, and enjoyable profession there could possibly be.''

One of Dr. Todd's many accomplishments included guiding the American Medical Association through the implementation of a dramatic revision in the Medicare payment system. His efforts changed the old ''reasonable and customary fee'' basis to a system that takes into account the resources that doctors bring to their profession, including education, and training.

Dr. Todd worked aggressively with a coalition of companies providing professional liability insurance for physicians, on ways to curb the escalating cost of malpractice insurance. He was deeply involved in drafting the guidelines for the practice of various medical specialties to reduce the number of errors committed by doctors.

As executive vice president, Dr. Todd also oversaw preparations for the establishment of the National Patient Safety Foundation. Its chief mission is to protect patients by identifying and correcting errors in medical systems, notably in the hospital system.

The physicians and patients of America alike have lost a friend and champion. We will miss Dr. Todd's spirit, integrity, and love for medicine.

Born in 1931, Dr. Todd graduated cum laude from Harvard College and Harvard Medical School. He interned and served his residency in surgery at Columbia Presbyterian Medical Center in New York City, becoming chief resident in 1963. He was a Diplomate of the American Board of Surgery and a Fellow of the American College of Surgeons. He was in private practice many years in New Jersey.

Dr. Todd, who retired in 1996 after 6 yeas as executive vice-president, was first elected a member of the board of trustees in 1980. He became senior deputy executive vice president in 1985, and was named executive vice president in 1990.

Dr. Todd is survived by his wife, Marjorie Patricia Thorn Todd, and his son, Kendall Scott Todd.•

CHANGES TO THE BUDGET RESOLUTION DISCRETIONARY SPENDING LIMITS, APPROPRIATE BUDGETARY AGGREGATES, AND APPROPRIATIONS COMMITTEE ALLOCATION

• Mr. DOMENICI. Mr. President, section 202 of House Concurrent Resolution 84, the concurrent resolution on the budget for fiscal year 1998, requires the chairman of the Senate Budget Committee to adjust the discretionary spending limits, the appropriate budgetary aggregates and the Appropriations Committee's allocation contained in the most recently adopted budget resolution—in this case, House Concurrent Resolution 84—to reflect additional new budget authority for an increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreement Act, as amended from time to time—New Arrangements to Borrow.

Section 202 of House Concurrent Resolution 84, the concurrent resolution on the budget for fiscal year 1998, requires the chairman of the Senate Budget Committee to adjust the discretionary spending limits, the appropriate budgetary aggregates and the Appropriations Committee's allocation contained in the most recently adopted budget resolution—in this case, House Concurrent Resolution 84—to reflect additional new budget authority and outlays for an appropriation for arrearages for international organizations, international peacekeeping, and multilateral development banks.

I hereby submit revisions to the nondefense discretionary spending limits for fiscal year 1998 contained in section 201 of House Concurrent Resolution 84 in the following amounts:

Budget authority:

	1998
Current nondefense discretionary spending limit	$257,857,000,000
Adjustment	3,741,000,000
Revised nondefense discretionary spending limit	261,598,000,000
Outlays:	
Current nondefense discretionary spending limit	286,445,000,000
Adjustment	13,000,000
Revised nondefense discretionary spending limit	286,458,000,000

I hereby submit revisions to the budget authority, outlays, and deficit aggregates for fiscal year 1998 contained in section 101 of House Concurrent Resolution 84 in the following amounts:

Budget authority:

	1998
Current aggregate	$1,386,700,000,000
Adjustment	3,741,000,000
Revised aggregate	1,390,441,000,000
Outlays:	
Current aggregate	1,372,000,000,000
Adjustment	13,000,000
Revised aggregate	1,372,013,000,000
Deficit:	
Current aggregate	173,000,000,000

	1998
Adjustment	13,000,000
Revised aggregate	173,013,000,000

I hereby submit revisions to the 1998 Senate Appropriations Committee budget authority and outlay allocations, pursuant to section 302 of the Congressional Budget Act, in the following amounts:

Budget authority:

	1998
Current Appropriations Committee allocation	$788,769,000,000
Adjustment	3,741,000,000
Revised Appropriations Committee allocation	792,510,000,000
Outlays:	
Current Appropriations Committee allocation	824,665,000,000
Adjustment	13,000,000
Revised Appropriations Committee allocation	824,678,000,000●

ORDER OF PROCEDURE

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING SENATOR ENZI

Mr. LOTT. Mr. President, I want to observe what an excellent job the Presiding Officer has done over the last 2 days. He was there until the wee hours, or late hours last night, and has been in the chair most of the day. The Senator from Wyoming has done an excellent job. We appreciate his work.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I announce when the Senate returns following the Independence Day recess, the Senate will return to consideration of the Department of Defense authorization bill. I want all Senators to know in advance it is my intent to complete action on that bill—the DOD authorization bill—that week, and I intend to stay with it even though it means votes on Friday, July 11, and even on Saturday, if necessary.

We have a lot of work to do. Earlier this year, because we were in a new Congress, some of the committees were not able to get their bills out, but we now have a lot of bills that are coming to the floor. The appropriations bills will be coming in rapid order. We have bills such as the FDA reform legislation, wildlife refuge bill, Amtrak reform, a whole number of bills. We are just going to have to work on Fridays, and we should begin, certainly, with the Department of Defense authorization bill.

In order to expedite action on the bill, I want any amendments that are going to be offered to be delivered to the committee. We would like for them to be given to the Armed Services Committee as soon as possible next week. The Armed Services staff will work through the recess to clear the amendments of any Senators that do have amendments they want to offer. So we urge Senators to make us aware of the amendments they have.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate turn to S. 936, the Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 936) to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate proceeded to consider the bill.

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on calendar No. 88, S. 936, the National Defense Authorization Act for fiscal year 1998: Trent Lott, Strom Thurmond, Jesse Helms, Pete Domenici, R. F. Bennett, Dan Coats, John Warner, Phil Gramm, Thad Cochran, Larry E. Craig, Ted Stevens, Tim Hutchinson, Jon Kyl, Rick Santorum, Mike DeWine, and Spencer Abraham.

Mr. LOTT. Mr. President, we will go to the DOD authorization bill on Monday, July 7. Senators who have amendments are urged to offer them during the day on Monday. However, no votes will occur during Monday's session of the Senate.

Mr. President, I ask unanimous consent that the cloture vote occur at 2:15 p.m. on Tuesday, July 8, and the mandatory quorum of rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Under rule XXII, all first-degree amendments must be filed with the clerk by 1 p.m. on Monday, July 7. All second-degree amendments must be filed just prior to the cloture vote on Tuesday.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2014

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now resume consideration of H.R. 2014, the Tax Fairness Act and that the Senate insist on its amendment, request a conference with the House on the disagreeing votes, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I did not hear that. Are we talking about the appointment of conferees?

Mr. LOTT. We are, Mr. Chairman.

Mr. ROTH. Mr. President, reserving the right to object, I suggest that I would like to have an opportunity to confer with the leader on this matter.

Mr. LOTT. Mr. President, before I resume my unanimous-consent request, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I believe we had gotten unanimous consent that the Senate insist on its amendment and request a conference with regard to H.R. 2014, and to authorize appointment of conferees on the part of the Senate. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

There being no objection, the Chair appointed, from the Committee on Finance, Mr. ROTH, Mr. LOTT, and Mr. MOYNIHAN; from the Committee on Budget, Mr. DOMENICI, Mr. GRASSLEY, Mr. NICKLES, Mr. LAUTENBERG, and Mr. CONRAD, conferees on the part of the Senate.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2015

Mr. LOTT. I now ask unanimous consent the Senate resume consideration of H.R. 2015, the Balanced Budget Act, and the Senate insist on its amendment and request a conference with the House on disagreeing votes, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair appointed, from the Committee on the Budget, Mr. DOMENICI, Mr. GRASSLEY, Mr. NICKLES, Mr. GRAMM, Mr. LAUTENBERG, Mr. CONRAD, and Mrs. BOXER; from the Committee on Agriculture, Nutrition, and Forestry, Mr. LUGAR, Mr. HELMS, and Mr. HARKIN; from the Committee on Banking, Housing, and Urban Affairs, Mr. D'AMATO, Mr. SHELBY, and Mr. SARBANES; from the Committee on Commerce, Science, and Transportation, Mr. MCCAIN, Mr. STEVENS, and Mr. HOLLINGS; from the Committee on Energy and Natural Resources, Mr. MURKOSWKI, Mr. CRAIG, and Mr. BUMPERS; from the Committee on Finance, Mr. ROTH, Mr. LOTT, and Mr. MOYNIHAN; from the Committee on Governmental Affairs, Mr. THOMPSON, Ms.

COLLINS, and Mr. GLENN; from the Committee on Labor and Human Resources, Mr. JEFFORDS, Mr. COATS, and Mr. KENNEDY; and from the Committee on Veterans' Affairs, Mr. SPECTER, Mr. THURMOND, and Mr. ROCKEFELLER, conferees on the part of the Senate.

ORDER TO PRINT

Mr. LOTT. Mr. President, I ask unanimous consent the Senate amendment to H.R. 2014 be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on the Executive Calendar, Calendar No. 122, 132, 138, 140 through 159, and all nominations placed at the Secretary's desk in the Air Force, Army, Coast Guard, Marine Corps, and Navy; I further ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid on the table, and any statements relating to the nominations appear at this point in the RECORD, and the President be immediately notified of the Senate's action and the Senate then return to legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Alan S. Gold, of Florida, to be U.S. District Judge for the Southern District of Florida.

DEPARTMENT OF LABOR

Kathryn O'Leary Higgins, of South Dakota, to be Deputy Secretary of Labor.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Richard J. Tarplin, of New York, to be an Assistant Secretary of Health and Human Services.

IN THE AIR FORCE

The following-named officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Wallace W. Whaley, 0000

IN THE ARMY

The following U.S. Army Reserve officers for promotion in the Reserve of the Army to the grades indicated under title 10, United States Code, sections 14101, 14315 and 12203(a):

To be brigadier general

Col. Herbert L. Altshuler, 0000

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Henry T. Glisson, 0000

The following-named officers for promotion in the Regular Army of the United States to the grade indicated under title 10, United States Code, sections 611(a) and 624:

To be major general

Brig. Gen. Phillip R. Anderson, 0000
Brig. Gen. Burwell B. Bell III, 0000
Brig. Gen. Bryan D. Brown, 0000
Brig. Gen. Julian H. Burns, Jr., 0000
Brig. Gen. Michael T. Byrnes, 0000
Brig. Gen. John S. Caldwell, Jr., 0000
Brig. Gen. Reginal G. Clemmons, 0000
Brig. Gen. George F. Close, Jr., 0000
Brig. Gen. Carl H. Freeman, 0000
Brig. Gen. Joseph R. Inge, 0000
Brig. Gen. Philip R. Kensinger, Jr., 0000
Brig. Gen. Donald L. Kerrick, 0000
Brig. Gen. Larry J. Lust, 0000
Brig. Gen. John J. Marcello, 0000
Brig. Gen. Timothy J. Maude, 0000
Brig. Gen. Dan K. McNeill, 0000
Brig. Gen. Paul T. Mikolashek, 0000
Brig. Gen. Mary E. Morgan, 0000
Brig. Gen. Bruce K. Scott, 0000
Brig. Gen. Jerry L. Sinn, 0000
Brig. Gen. James R. Snider, 0000
Brig. Gen. Edward Soriano, 0000
Brig. Gen. Julian A. Sullivan, Jr., 0000
Brig. Gen. John D. Thomas, Jr., 0000
Brig. Gen. Howard J. von Kaenel, 0000
Brig. Gen. William S. Wallace, 0000
Brig. Gen. William E. Ward, 0000
Brig. Gen. David S. Weisman, 0000

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. David K. Heebner, 0000

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Darrel P. Baker, 0000
Brig. Gen. Murrel J. Bowen, Jr., 0000
Brig. Gen. John D. Havens, 0000
Brig. Gen. Eugene S. Imai, 0000
Brig. Gen. Thomas D. Kinley, 0000
Brig. Gen. Federico Lopez III, 0000
Brig. Gen. Joel W. Norman, 0000
Brig. Gen. John C. Rowland, 0000

To be brigadier general

Col. John C. Atkinson, 0000
Col. John A. Bathke, 0000
Col. William H. Hall, 0000
Col. Dennis A. Kamimura, 0000
Col. Eugene P. Klynoot, 0000
Col. Dennis D. Krsnak, 0000
Col. Benny M. Paulino, 0000
Col. James L. Pruitt, 0000
Col. Edwin H. Roberts, Jr., 0000
Col. Charles L. Rosenfeld, 0000
Col. John R. Scales, 0000
Col. John A. Tymeson, 0000
Col. Brian D. Winter, 0000

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Richard A. Chilcoat, 0000

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Thomas N. Burnette, Jr., 0000

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Paul J. Kern, 0000

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Lt. Ben. Eric K. Shinesko, 0000

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Robert S. Coffey, 0000

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John W. Hendrix, 0000

IN THE MARINE CORPS

The following-named officer for appointment in the U.S. Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Frank Libutti, 0000

The following-named officer for appointment in the U.S. Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John E. Rhodes, 0000

IN THE NAVY

The following-named officers for appointment in the Reserve of the Navy to the grade indicated under title 10, United States Code, section 12203:

To be rear admiral

Rear Adm. (lh) William H. Butler, 0000
Rear Adm. (lh) Casey W. Coane, 0000
Rear Adm. (lh) William E. Herron, 0000
Rear Adm. (lh) Stephen T. Keith, 0000
Rear Adm. (lh) William J. Logan, 0000

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Henry C. Griffin III, 0000

The following-named officers for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral

Rear Adm. (lh) Timothy R. Beard, 0000
Rear Adm. (lh) David L. Brewer III, 0000
Rear Adm. (lh) Stanley W. Bryant, 0000
Rear Adm. (lh) Toney M. Bucchi, 0000
Rear Adm. (lh) William W. Copeland, Jr., 0000
Rear Adm. (lh) John W. Craine, Jr., 0000
Rear Adm. (lh) Robert E. Frick, 0000
Rear Adm. (lh) Paul G. Gaffney II, 0000
Rear Adm. (lh) Edmund P. Giambastiani, Jr., 00008
Rear Adm. (lh) John J. Grossenbacher, 0000
Rear Adm. (lh) James B. Hinkle, 0000
Rear Adm. (lh) Gordon S. Holder, 0000
Rear Adm. (lh) Martin J. Mayer, 0000
Rear Adm. (lh) Barbara E. McGann, 0000
Rear Adm. (lh) Charles W. Moore, Jr., 0000
Rear Adm. (lh) John B. Nathman, 0000
Rear Adm. (lh) William R. Schmidt, 0000
Rear Adm. (lh) Robert C. Williamson, 0000

The following-named officer for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral (lower half)

Capt. Joseph W. Dyer, Jr., 0000

IN THE ARMY

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. David J. Kelley, 0000

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Randolph W. House, 0000

IN THE AIR FORCE, ARMY, COAST GUARD, MARINE CORPS, NAVY

Air Force nomination of Andrew J. Jorgensen, which was received by the Senate and appeared in the Congressional Record of May 15, 1997.

Army nominations beginning John A. Adams, and ending Kenneth M. Younger, which nominations were received by the Senate and appeared in the Congressional Record of January 9, 1997.

Army nominations beginning Robert T. Anderson, and ending Robert J. Wygonski, which nominations were received by the Senate and appeared in the Congressional Record of February 5, 1997.

Army nominations beginning Charles R. Bailey, and ending John L. Wydeven, which nominations were received by the Senate and appeared in the Congressional Record of May 15, 1997.

Army nominations beginning Chessley R. Atchison, and *Stephen E. Schless, which nominations were received by the Senate and appeared in the Congressional Record of May 15, 1997.

Army nominations beginning Robert R. Bottin, Jr., and ending Diane P. Rousseau, which nominations were received by the Senate and appeared in the Congressional Record of June 5, 1997.

Army nominations beginning Doreen M. * Agin, and ending Donald G. *Zugner, which nominations were received by the Senate and appeared in the Congressional Record of June 10, 1997.

Army nominations beginning Bret T. Ackermann, and ending Joan H. Zeller, which nominations were received by the Senate and appeared in the Congressional Record of June 10, 1997.

Coast Guard nominations beginning Catherine M. Kelly, and ending Ronald W. Reusch, which nominations were received by the Senate and appeared in the Congressional Record of February 27, 1997.

Coast Guard nomination of Richard W. Sanders, which was received by the Senate and appeared in the Congressional Record of May 15, 1997.

Marine Corps nomination of Gilda A. Jackson, which was received by the Senate and appeared in the Congressional Record of April 7, 1997.

Marine Corps nomination of Richard L. Songer, which was received by the Senate and appeared in the Congressional Record of May 15, 1997.

Marine Corps nominations beginning Robert E. Ballard, and ending Patrick K. Wyman, which nominations were received by the Senate and appeared in the Congressional Record of May 15, 1997.

Marine Corps nominations David J. Biow, and ending Andrew D. Zinn, which nominations were received by the Senate and appeared in the Congressional Record of June 2, 1997.

Marine Corps nomination of John M. Metterle, which was received by the Senate and appeared in the Congressional Record of June 10, 1997.

Marine Corps nomination of John J. Egan, which was received by the Senate and appeared in the Congressional Record of June 10, 1997.

Navy nomination of Timothy S. Garrold, which was received by the Senate and appeared in the Congressional Record of May 15, 1997.

KATHRYN O'LEARY HIGGINS

Mr. DASCHLE. Mr. President, I wholeheartedly endorse the confirmation of Kathryn O'Leary Higgins as Deputy Secretary of Labor. Kitty Higgins is the right person with the right experience at the right time. As chief of staff for former Labor Secretary Robert Reich, she showed that she knows how to pull the levers, she knows how to motivate people, she knows how the Labor Department works and she knows how to make the Department work for people.

I've known and admired Kitty Higgins for years. She is the kind of person we need more of in Government. She's intelligent and efficient and tenacious. She's idealistic and pragmatic. And, if that's not enough, she's from South Dakota. In fact, she is the highest-ranking South Dakotan in the administration.

Kitty Higgins has spent her entire career in public service. For the last 2 years, she has served as Assistant to the President and Cabinet Secretary in the White House. Before that, she was Bob Reich's chief of staff at Labor. She is a former administrative assistant to Congressman SANDER LEVIN and a former minority staff director for the Senate Labor and Human Resources Committee under Senator KENNEDY. In addition, she has served as the former assistant director for domestic policy during the Carter administration and a former Manpower specialist with the Department of Labor.

She understands the executive branch of Government, the House and the Senate. More importantly, she understands what each of us needs to be able to work in good faith with the others to get results.

There is one other chapter in Kitty Higgins life that I believe makes her the right person at the right time. Kitty Higgins started her working life at the Department of Labor as a clerk-typist. When her two sons were still young, her husband, Bill, died. She raised her sons as a single mother. She knows what it's like to be stretched thin between work and home. She understands the pressures that so many families are under today and she is determined to help alleviate those pressures for other working parents.

The national economy is the best its been in years. The deficit is down, interest rates are down. The stock market is up, as well as employment and business investment and home ownership and virtually every other economic indicator that ought to be up. But there are still people left out of this recovery. Making sure that working families benefit from this economic recovery—keeping the American dream alive—is the most important thing this Congress can do. And it is the most important thing the Labor Department can do. Kitty Higgins has the right qualities and the right background to help both institutions live up to that responsibility. I wish her the best of luck.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

AMENDING THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

Mr. LOTT. Mr. President, I ask unanimous consent the Senate now proceed to consideration of Calendar No. 102, H.R. 173.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 173) to amend the Federal Property and Administrative Services Act of 1949, to authorize donation of surplus Federal law enforcement canines to their handlers.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LOTT. I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 173) was read the third time, and passed.

ENERGY POLICY AND CONSERVATION ACT AMENDMENTS

Mr. LOTT. Mr. President, I ask unanimous consent the Senate now proceed to consideration of Calendar No. 77, S. 417.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 417) to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

The Energy Policy and Conservation Act is amended—

(1) at the end of section 154 by adding the following new subsection:

''(f) No later than October 1, 1997, the Secretary shall prepare a statement of policy on Strategic Petroleum Reserve development, maintenance and drawdown. The statement of policy shall evaluate the effect of sales of petroleum from the Strategic Petroleum Reserve under authorities other than those provided by this Act on the ability of the United States to fulfill its obligations under the international energy program. The statement of policy shall evaluate the effectiveness of the Strategic petroleum Reserve at reducing the impact of severe energy supply interruptions, in light of existing quantities of petroleum in the Strategic Petroleum Reserve, and the likelihood of purchases of additional petroleum for storage. The statement of policy shall set forth alternative strategies for drawdown and the criteria to be employed at the time of drawdown to select among such strategies. The statement of policy shall be published in the Federal Register and be subject to public comment, and may be prepared without regard to the requirements of section 553 of title 5, United States Code, section 501 of the Department of Energy Organization Act (42 U.S.C. 7191), and section 523 of this Act.'';

(2) by amending section 166 (42 U.S.C. 6246) to read as follows:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 166. There are authorized to be appropriated for each of fiscal years 1998 through 2000 such sums as may be necessary to implement this part.'';

(3) at the end of part B of title I by adding the following new section:

''USE OF UNDERUTILIZED FACILITIES

''SEC. 168. (a) Notwithstanding section 649(b) of the Department of Energy Organization Act (42 U.S.C. 7259(b)), the Secretary is authorized to store in underutilized Strategic Petroleum Reserve facilities, by lease or otherwise, petroleum product owned by a foreign government or its representatives. Petroleum product stored under this section is not part of the Strategic Petroleum Reserve, is not subject to part C of this title, and notwithstanding any provision of this Act, may be exported from the United States.

''(b) Beginning on October 1, 2002, funds resulting from the leasing or other use of a Reserve facility under subsection (a) shall be available to the Secretary, without further appropriation, for the purchase of petroleum products for the Reserve.'';

(4) in section 181 (42 U.S.C. 6251) by striking ''1997'' other places it appears and inserting in lieu thereof ''2000'';

(5) by striking ''section 252(l)(1)'' in section 251(e)(1) (42 U.S.C. 6271(e)(1)) and inserting ''section 252(k)(1)'';

(6) in section 252 (42 U.S.C. 6272)—

(A) in subsections (a)(1) and (b), by striking ''allocation and information provisions of the international energy program'' and inserting ''international emergency response provisions'';

(B) in subsection (d)(3), by striking ''known'' and inserting after ''circumstances'' ''known at the time of approval'';

(C) in subsection (e)(2) by striking ''shall'' and inserting ''may'';

(D) in subsection (f)(2) by inserting ''voluntary agreement or'' after ''approved'';

(E) by amending subsection (h) to read as follows:

''(h) Section 708 of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out—

''(1) the international energy program, or

''(2) any allocation, price control, or similar program with respect to petroleum products under this Act.'';

(F) in subsection (k) by amending paragraph (2) to read as follows:

''(2) The term 'international emergency response provisions' means—

''(A) the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in the program, and

''(B) the emergency response measures adopted by the Governing Board of the International Energy Agency (including the July 11, 1984, decision by the Governing Board on 'Stocks and Supply Disruptions') for—

''(i) the coordinated drawdown of stocks of petroleum products held or controlled by governments; and

''(ii) complementary actions taken by governments during an existing or impending international oil supply disruption''; and

(G) by amending subsection (l) to read as follows:

''(l) The antitrust defense under subsection (f) shall not extend to the international allocation of petroleum products unless allocation is required by chapters III and IV of the international energy program during an international energy supply emergency.'';

(7) by amending the last sentence of section 256(h) (42 U.S.C. 6276(h)) to read as follows: ''There are authorized to be appropriated for each of fiscal years 1998 through 2002 such sums as may be necessary to carry out this part.'';

(8) in section 281 (42 U.S.C. 6285) by striking ''1997'' both places it appears and inserting in lieu thereof ''2002''.;

(9) in section 365(f)(1) (42 U.S.C. 6325(f)(1)) by striking ''not to exceed'' and all that follows through ''fiscal year 1993'' and inserting in lieu thereof ''for each of fiscal years 1998 through 2002 such sums as may be necessary'';

(10) by amending section 397 (42 U.S.C. 6371f) to read as follows:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated for each of fiscal years 1998 through 2002 such sums as may be necessary.''; and

(11) in section 400BB(b) (42 U.S.C. 6374a(b)) by amending paragraph (1) to read as follows:

''(1) There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for each of fiscal years 1998 through 2002, to remain available until expended.''.

SEC. 2. PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES AND FREELY ASSOCIATED STATES.

(a) Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following:

''(j) PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES AND FREELY ASSOCIATED STATES.—

''(1) DEFINITIONS.—In this subsection:

''(A) BINDING OFFER.—The term 'binding offer' means a bid submitted by the State of Hawaii for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to paragraph (2) of this subsection, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer.

''(B) CATEGORY OF PETROLEUM PRODUCT.—The term 'category of petroleum product' means a master line item within a notice of sale.

''(C) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that owns or controls a refinery that is located within the State of Hawaii.

''(D) FULL TANKER LOAD.—The term 'full tanker load' means a tanker of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii.

''(E) INSULAR AREA.—The term 'insular area' means the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and the Freely Associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(F) OFFERING.—The term 'offering' means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale.

''(G) NOTICE OF SALE.—The term 'notice of sale' means the document that announces—

''(i) the sale of Strategic Petroleum Reserve products;

''(ii) the quantity, characteristics, and location of the petroleum product being sold;

''(iii) the delivery period for the sale; and

''(iv) the procedures for submitting offers.

''(2) IN GENERAL.—In the case of an offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve—

''(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

''(i) submit a binding offer, and shall on submission of the offer, be entitled to purchase a category of a petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering; and

''(ii) submit 1 or more alternative offers, for other categories of the petroleum product, that will be binding if no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

''(B) at the request of the Governor of the State of Hawaii, a petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

''(3) LIMITATION ON QUANTITY.—

''(A) IN GENERAL.—In administering this subsection, in the case of each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that result in the purchase of the lesser quantity of petroleum product.

''(B) PORTION OF QUANTITY OF PREVIOUS IMPORTS.—The Secretary may limit the quantity of a petroleum product that the State of Hawaii may purchase through a binding offer at any offering to 1/12 of the total quantity of imports of the petroleum product brought into the State during the previous year (or other period determined by the Secretary to be representative).

''(C) PERCENTAGE OF OFFERING.—The Secretary may limit the quantity that may be purchased through binding offers at any offering to 3 percent of the offering.

''(4) ADJUSTMENTS.—

''(A) IN GENERAL.—Notwithstanding any limitation imposed under paragraph (3), in administering this subsection, in the case of each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, or an eligible entity certified under paragraph (7), adjust the quantity to be sold to the State of Hawaii in accordance with this paragraph.

''(B) UPWARD ADJUSTMENT.—The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

''(i) less than 1 full tanker load; or

''(ii) greater than or equal to 50 percent of a full tanker load more than a whole number increment of a full tanker load.

''(C) DOWNWARD ADJUSTMENT.—The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

''(5) DELIVERY TO OTHER LOCATIONS.—The State of Hawaii may enter into an exchange or a processing agreement that requires delivery to other locations, if a petroleum product of similar value or quantity is delivered to the State of Hawaii.

''(6) STANDARD SALES PROVISIONS.—Except as otherwise provided in this Act, the Secretary

may require the State of Hawaii to comply with the standard sales provisions applicable to purchasers of petroleum product at competitive sales.

''(7) ELIGIBLE ENTITIES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and notwithstanding any other provision of this paragraph, if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to carry out this Act, the eligible entity may act on behalf of the State of Hawaii to carry out this subsection.

''(B) LIMITATION.—The Governor of the State of Hawaii shall not certify more than 1 eligible entity under this paragraph for each notice of sale.

''(C) BARRED COMPANY.—If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify the company under this paragraph.

''(8) SUPPLIES OF PETROLEUM PRODUCTS.—At the request of the governor of an insular area, or President of a Freely Associated State, the Secretary shall, for a period not to exceed 180 days following a drawdown of the Strategic Petroleum Reserve, assist the insular area in its efforts to maintain adequate supplies of petroleum products from traditional and non-traditional suppliers.''.

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Energy shall issue such regulations as are necessary to carry out the amendment made by subsection (a).

(2) ADMINISTRATIVE PROCEDURE.—Regulations issued to carry out the amendment made by subsection (a) shall not be subject to—

(A) section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393); or

(B) section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the earlier of—

(1) the date that is 180 days after the date of enactment of this Act; or

(2) the date that final regulations are issued under subsection (b).

SEC. 3. ENERGY POLICY ACT OF 1992 AMENDMENT.

Section 2603 of the Energy Policy Act of 1992 (25 U.S.C. 3503) is amended in subsection (c) by striking ''and 1997'' each place it appears and inserting ''1997, 1998, 1999, and 2000'' in lieu thereof.

SEC. 4. ENERGY CONSERVATION AND PRODUCTION ACT AMENDMENT.

Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended to read as follows:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 422. For the purpose of carrying out the weatherization program under this part, there are authorized to be appointed for each of fiscal years 1998 through 2002 such sums as may be necessary.

Mr. LOTT. I ask unanimous consent the committee substitute amendment be agreed to and the bill be considered read a third time and passed, the motion to reconsider laid on the table, and any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (S. 417) was read the third time, and passed.

AMENDING SECTIONS OF THE DEPARTMENT OF ENERGY ORGANIZATION ACT

Mr. LOTT. Mr. President, I ask unanimous consent the Senate proceed to consideration of Calendar No. 78, H.R. 649.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 649) to amend sections of the Department of Energy Organization Act that are obsolete or inconsistent with other statutes and to repeal a related section of the Federal Energy Administration Act of 1974.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LOTT. I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid on the table, and any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 649) was read the third time, and passed.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. LOTT. Mr. President, I ask unanimous consent that on Tuesday, July 1, committees have between the hours of 10 and 2 p.m., in order to file reported legislative and executive matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

WISHING THE PEOPLE OF HONG KONG GOOD FORTUNE

Mr. LOTT. I ask unanimous consent that the Senate proceed to the immediate of Senate Resolution 105, submitted earlier today by Senators LIEBERMAN and MACK.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 105) expressing the sense of the Senate that the people of the United States wish the people of Hong Kong good fortune as they embark on their historic transition of sovereignty from Great Britain to the People's Republic of China.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 105) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 105

Whereas at one minute past midnight on July 1, Hong Kong will cease to be a colonial possession of Great Britain and will return to Chinese sovereignty;

Whereas the people of Hong Kong enjoy civil liberties and political freedoms based on the democratic rule of law and the functions of a free market;

Whereas the People's Republic of China has promised through international agreements and Chinese law to preserve Hong Kong's way of life and to grant the people of Hong Kong substantial autonomy in self-government;

Whereas the United States is committed through the Hong Kong Policy Act of 1992 to monitoring, advocating and reporting on the continuation of Hong Kong's freedoms under Chinese rule; and

Whereas the United States enjoys a longstanding commercial, cultural and political relationship with Hong Kong and a developing relationship with the People's Republic of China: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the people of the United States wish good fortune to the people of Hong Kong as they embark on their historic transition of sovereignty;

(2) the United States urges the People's Republic of China to honor both the spirit and the letter of its commitments to accord Hong Kong substantial autonomy as a separate administrative region in a China characterized as ''one country, two systems;''

(3) the executive branch should exercise due diligence in enforcing the terms and conditions of the Hong Kong Policy Act of 1992 and subsequent acts and provisions concerning the protection of civil liberties and the rule of law in Hong Kong;

(4) the United States looks forward to continuing its close, productive relationship with the people of Hong Kong; and

(5) the United States hopes to develop a positive, productive relationship with the People's Republic of China based upon shared respect for human dignity and responsible behavior in the international community of nations.

OUR LIVES WERE CHANGED FOREVER

Mr. LOTT. Mr. President, the loss of child is probably the greatest heartache that any parent can experience or could conceivably experience.

Last fall, Senator SANTORUM and his wife, Karen, faced that tragedy. Most of us, I am sure, had occasion to speak with them then and were impressed by their faith and their courage.

Senator SANTORUM talks about his family's experience in an article in the May 23 issue of ''National Right to Life News.'' Its title is ''A Brief Life That Changed Our Lives Forever.'' It is very powerful, and I urge my colleagues to take the opportunity to read this article, because I think it will affect their lives also.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the National Right to Life News, May 23, 1997]

A BRIEF THAT CHANGED OUR LIVES FOREVER

(By Rick Santorum)

On September 26, 1996, the Senate voted to sustain President Clinton's veto of the partial-Birth Abortion Ban. I led the fight to override the veto on the floor of the Senate.

Central to the debate was the assertion by opponents of the ban that this procedure is necessary later in pregnancy in cases when a severe fetal defect is discovered. I was told that I could not understand what these women, who experienced this procedure, has gone through. ''It has never touched your life,'' one senator said.

This is a story of how just one week after that vote, it did.

We had been through the joyous sonogram routine before—the technician would turn out the lights, spread gel on Karen's growing adbomen, and then right there on the screen in front of our eyes we would get the first glimpse of our baby—a fuzzy, back-and-white picture that told us all was well.

This time, however, was different. Sitting in the darkened room explaining what we were seeing to our three children—ages 5, 3, and 1—everything seemed fine. But the woman with the instrument was strangely quiet, examining and re-examining a dark circle on the screen. The doctor entered and silently repeated the routine. Finally, we were coldly given the verdict: ''Your child has a fatal defect and is going to die.''

It's not that the world stopped, nor that is moved in slow motion, it was just that the world took on a new meaning. Suddenly, our child whom we loved, prayed for, dreamed about, and longed to meet was diagnosed with a fatal condition. Through our tears erupted the most basis of all parental emotions—we were going to save our child.

I took the kids out into the hallway to the phone and called Dr. N. Scott Adzick, who is the surgeon in chief of pediatrics at Children's Hospital in Philadelphia. Six months earlier, I had gone to Children's Hospital and seen a world I had never known existed—a world of Dr. Adzick's creation—a world of surgery and care for children still in their mother's womb. I remembered his amazing skill and how I sensed an aura of peace and a certainty of purpose surrounding his mission.

I frantically described what had transpired and asked if he could help. Before he peppered me with questions, he calmly reassured me that all was not lost. He had seen cases like this before and knew immediately that it had to be post-urethral valve syndrome. Scott's principal concern had to do with the absence of fluid in the amniotic sac, which meant that our baby likely had a complete obstruction of his urinary tract—in short, a very rare condition that carried with it a 100% mortality rate if untreated.

Not typically understood is that the element comprising the amniotic fluid encompassing the baby during development is the baby's urine. The fluid not only provides a barrier of protection from outside trauma, but it is necessary in the development of the baby's lungs. Without the fluid his lungs would not develop enough for him to survive outside the womb. In addition, this condition would cause the kidneys to cease functioning.

Dr. Adzick arranged for tests to be done the next day at The Pennsylvania Hospital. The initial results did not look good. Seated in front of our second sonogram machine in as many days, Dr. Adzick and Dr. Alan Donnenfeld, an ob/gyn and perinatologist, told us that the kidneys looked like their function was severely compromised. Dr. Adzick told us that though he, too, was discouraged, there was an occasion where he had seen damaged kidneys have sufficient levels of function, enabling a baby to survive until a transplant.

We adjourned to a supply room next to the treatment area. The purpose of the meeting was to discuss options. Dr. Donnenfeld took the lead, saying that things were grave, and presenting us with three options. ''Your first option is to terminate the pregnancy.'' As the word pregnancy left his lips the room instantly went dark. The doctor quickly reached up and turned on the light, which was on a timer. Through nervous and awkward laughter I said, ''I guess that answers your question.''

We knew that abortion was a legal option, it just wasn't a sane one. It was inconceivable to us as parents to kill our baby because he wasn't perfect or because he might not live a long life. While we couldn't look into his eyes or hold him in our arms, he was no less our child than our other three children. And we loved him every bit as much. He was our gift from God from the moment we found out Karen was pregnant. In our mind, from that time on our job as parents of this tiny life was to do everything we could to nurture him through life. Karen and I have this saying, ''life is about being there,'' and we were going to be there for our baby.

The second option was to do nothing. In this case our son would live only as long as he was in the womb. While in the womb our baby's lungs and kidneys were not necessary for him to survive—Karen was performing those functions for him.

The third option would entail several tests and possibly intrauterine surgery. Karen's immediate response was to do whatever it took to save our son.

Our son went through two days of tests to determine kidney function. If there was no kidney function there would be no point in proceeding further—he would not develop enough in the womb to survive outside. The first day the test results were so bad that we discussed whether it was worth going through a second painful day for Karen. Dr. Adzick said we needed a miracle overnight to get those kidneys to work better.

We prayed more than I can remember for our son, who we named that day Gabriel Michael, after the great Archangels. The next day our prayers were answered with a miraculous improvement; the kidneys were not just okay, but functioning normally! We could now do the surgery that would save his life.

Had this occurred in our lives years earlier, I don't know how we would have dealt with it. But in the past several years we had found a closer relationship with God.

Shortly after being elected to the Senate, Sen. Don Nickles of Oklahoma invited me to come to a small Bible study. I went that day and I have attended faithfully ever since. I found the piece that fit what C.S. Lewis has called that ''great, God-shaped hole in our soul.'' I found a new and better relationship with God. And I learned one of life's best lessons: that I can't do anything alone, that I had to give up my illusion of control and put my trust in God.

Karen's story is little different than mine. For the past several years Karen has pursued her faith on an ever ascending level. Through prayer, studying the Bible and Catholic catechism, and now attending daily mass, she too learned to try to give up her control and rely on God's grace.

Thanks to Lloyd Ogilvie, the Chaplain of the Senate, our parish priests and the prayers of our friends, this crisis was not so much a ''faith check'' for us as it was a time of reassurance. For we knew that no matter what happened, God held all of us in his hands. With that knowledge there is a peace beyond human understanding.

The surgical procedure to drain the urine into the amniotic sac, in an effort to create the proper fluid environment for Gabriel, was scheduled at The Pennsylvania Hospital with Dr. Bud Wiener. Dr. Wiener had done more of these procedures than anyone else on the East Coast and had pioneered the plastic tube that would be inserted in Gabriel's bladder to drain the urine.

The idea that surgery on a child in only his 20th week of life inside the womb boggles the mind. And watching Dr. Wiener at work was something to behold as he guided the tube into place. We would check in three days to see if the tube was working, and of course there is the customary surgical concern about infection.

Two days later while we were at home in Pittsburgh, Karen began feeling both chills and cramping—the chills were a sign of infection and the cramping was the beginning of labor.

Hoping desperately that it was food poisoning or the flu, Karen fought to hold it together. A call to Dr. Donnenfeld was met with an order to rush to Magee Women's Hospital.

There a doctor performed another sonogram. What we saw made this moment even more tragic. The fuzzy picture on the screen showed an active baby jumping and moving freely in a sac of amniotic fluid. The procedure had worked like a charm, but there was infection.

Karen was seized with horrible chills. Huddled under a dozen blankets her temperature soared to over 105. By this point there was little that could be done. Intra-uterine infections are untreatable as long as the source of the infection—the amniotic sac—is in place. We knew that at 20 weeks [4½ months], Gabriel could not survive outside the womb. But, unless the amniotic sac and thereby our son was delivered, Karen would soon die, and Gabriel with her.

Karen was given an antibiotic which reduced the fever, made her comfortable and took her out of immediate danger. She clung to the baby with all her strength, but nature was relentless. Soon the labor intensified—the body had identified the source of the problem and took measures to eliminate the infection. She did everything she could to delay the inevitable, putting her own life in danger in the process. I talked to everyone I knew to see if there was something that could be done. There was no answer to be found.

Here again the doctors told us that abortion was a legal option to protect Karen's health and possibly save her life. But with the support of Dr. Cynthia Simms we arrived at another way—a way that gave our son the love and respect he deserved, and gave Karen and me a gift that we will forever cherish.

Our call to Dr. Adzick, who had become a supportive force for us throughout, put an end to our search for alternatives. He told Karen that Gabriel would have to be delivered. I thanked God for the presence of Karen's parents who provided so much love and support and our friend Monsignor Bill Kerr who was also there providing spiritual guidance.

We knew the end was very near, so we tried to pack a lifetime of love into those few hours. I put my hands on Karen's abdomen. We prayed and we cried. We told him how much we loved him—how much we will miss mothering and fathering him, and how his brothers and sisters will miss his presence in their lives.

Within hours, at 12:45 a.m., our son was born. He was a beautiful, fully formed creation—a small, pink package of joy, sorrow, hope, and questions. We bundled him up and put a little hat on his head to keep him warm. We held him, sang to him and cried

for him. He was too small to make a sound, but he spoke so powerfully to our hearts. His eyes never opened to see his mommy and daddy, but he allowed us to see in him the face of God.

Two hours later, he died in my arms.

We tried to make Gabriel's short time on earth filled with love, only love. We told him that soon he would experience something we are striving for. He will be with God in heaven. Finally, we pledged to him that we would rededicate ourselves to joining him someday.

This is our story. The irony of finding ourselves confronted with a baby with a fatal defect—when only a few days before some considered the absence of such experience to disqualify me from the debate on partial-birth abortion—was truly overwhelming. On two occasions, we too could have chosen the option to abort. We knew that Gabriel's life would probably be measured in minutes and hours, not in years and decades. We chose to let Gabriel live and die in the fullness of time—being held and loved and nurtured by two parents who loved him.

We wouldn't have traded the gift of those two hours with our son for anything in the world. And we know that he wouldn't have either.

In the midst of the debate that fall, worried about the impact of the gruesome description of the procedure, one of the senators opposing the ban said that a partial-birth abortion, like a simple appendectomy was bloody—that was just the nature of the event.

The Washington Post described what happened next.

''Republican Sen. Rick Santorum turned to face the opposition and in a high, pleading voice cried out, 'Where do we draw the line? Some people have likened this procedure to an appendectomy. That's not an appendix,' he shouted, pointing to a drawing of a fetus. 'That is not a blob of tissue. It is a baby. It's a baby.'

''And then, impossibly, in an already hushed gallery, in one of those moments when the floor of the Senate looks like a stage set, with its small wooden desks somehow too small for the matters at hand, the cry of a baby pierced the room, echoing across the chamber from an outside hallway.

''No one mentioned the cry, but for a few seconds no one spoke at all.''

A freak occurrence—a visitor's baby was crying in the hallway as a door to the floor was opened and few seconds later closed.

A freak occurrence perhaps—or maybe, a cry from the son whose voice we never heard, but whose life has forever changed ours.

MEASURE RETURNED TO CALENDAR—S. 949

Mr. LOTT. Mr. President, I ask unanimous consent that Calendar No. 92, S. 949, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JULY 7, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the provisions of House Concurrent Resolution 108 until the hour of 12 noon on Monday, July 7. I further ask unanimous consent that on Monday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately resume consideration of the defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I ask unanimous consent that Senator COVERDELL and Senator DASCHLE, or his designee, each be recognized for up to 1 hour during Monday's session of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, again, I remind all Senators, when the Senate returns from the July 4th recess, we will resume consideration of the defense authorization bill. As announced earlier, no rollcall votes will occur on Monday, July 7. However, Senators should be prepared to offer their amendments to the defense bill so that progress can be made on that important legislation. A cloture motion was filed to the defense bill this afternoon, and under that order, a cloture vote will occur at 2:15 p.m. on Tuesday, July 8.

ADJOURNMENT UNTIL MONDAY, JULY 7, 1997

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of House Concurrent Resolution 108.

There being no objection, the Senate, at 6:56 p.m., adjourned until Monday, July 7, 1997, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 27, 1997:

THE JUDICIARY

JAMES S. WARE, OF CALIFORNIA, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE J. CLIFFORD WALLACE, RETIRED.

IN THE MARINE CORPS

THE FOLLOWING-NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE U.S. MARINE CORPS UNDER TITLE 10, UNITED STATES CODE SECTION 624:

To be lieutenant colonel

DEMETRICE M. BABB, 0000
JOHN W. BLOODWORTH, JR. 0000
DEBRA A. FLETCHER, 0000
HAROLD J. GUILLORY, 0000
MARIE G. JULIANO, 0000
MARSHALL L. KINDRED, 0000
PETER J. KOUTROUBA, 0000
MICHAEL P. LINEHAM, 0000
ALBERT A. LUCKEY, 0000
DANIEL P. LYBERT, 0000
HECTOR L. MELENDEZ, 0000
LARRY T. MESSNER, 0000
MICHAEL C. MONTCRIEFF, 0000
WILLIAM J. RESAVY, JR., 0000
TIMOTHY R. ROLLINS, 0000
STANLEY D. TEMPLE, 0000
JOHN M. THORNTON, 0000
BERNDT H. TIETJEN, 0000
MICHAEL K. TOELLNER, 0000

To be major

ERNEST D. BANKS, 0000
THOMAS P. BARZDITIS, 0000
BRAD W. BERGMAN, 0000
WILLIAM BEROTTE, JR., 0000
MICHAEL J. BISSONNETTE, 0000
CARMINE J. BORRELLI, 0000
JACK V. BUTLER, JR., 0000
RICHARD W. BYNO, JR., 0000
FRED M. CALLIES, 0000
ARTHUR P. COCHRAN, 0000
ROBERT N. CONQUEST, 0000
JOSEPH A. COPPOLA, 0000
NELLO E. DACHMAN, 0000
GERARD F. DORRE, 0000
ROURK A. ELLQUIST, 0000
DOUGLAS M. FARLEY, 0000
DAVID W. FISHER, 0000
VERNON R. FREDERICK, JR., 0000
MICHAEL J. GALLAGHER, 0000
LOWELL B. GOUTREMOUT, JR., 0000
RAYMOND L. KESSLER, 0000
MARK A. KNOWLES, 0000
RICHARD D. KOSS, 0000
MICHAEL J. LEWIS, 0000
JAMES R. LOGAN, 0000
KEVIN F. MASON, 0000
THOMAS P. MCCABE, 0000
DANIEL J. MCLEAN, 0000
WILLIAM A. MEZNARICH, JR., 0000
WILLIE J. MOORE, 0000
ROBERT M. REILLY, 0000
THOMAS R. RICE, 0000
GUILLERMO R. RIVERO, 0000
CARL J. SCHEIDT, 0000
SHANE D. SELLERS, 0000
DANIEL L. SPEEDY, 0000
LARRY E. SPICER, 0000
STANLEY E. THOMAS, 0000
DARRELL W. TIBBETS, JR., 0000
JAMES E. TURNER, 0000
GEORGE M. WYGANT, 0000
JOHN E. ZEGER, JR., 0000

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 12203 AND 1552:

To be colonel

TERRY L. BELVIN, 0000
MYRON J. BERMAN, 0000
ERWIN A. BURTNICK, 0000
GARY W. GARDENHIRE, 0000
GEORGE C. GOLLER II, 0000
KNUTE M. MILLER, 0000
JERRY W. RESHETAR, 0000
JAMES SPECHT, 0000
MARK O. WALSH, 0000
GEORGE W. WELLS, JR., 0000
JAMES A. ZERNICKE, 0000

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NANCY-ANN MINN DEPARLE, OF TENNESSEE, TO BE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION, VICE BRUCE C. VLADECK.

DEPARTMENT OF THE TREASURY

DAVID A. LIPTON, OF MASSACHUSETTS, TO BE AN UNDER SECRETARY OF THE TREASURY, VICE JEFFREY R. SHAFER, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 27, 1997:

DEPARTMENT OF LABOR

KATHRYN O'LEARY HIGGINS, OF SOUTH DAKOTA, TO BE DEPUTY SECRETARY OF LABOR.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

RICHARD J. TARPLIN, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

ALAN S. GOLD, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be major general

BRIG. GEN. WALLACE W. WHALEY, 0000

IN THE ARMY

THE FOLLOWING U.S. ARMY RESERVE OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTIONS 14101, 14315 AND 12203(A):

To be brigadier general

COL. HERBERT L. ALSHULER, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. HENRY T. GLISSON, 0000

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be major general

BRIG. GEN. PHILLIP R. ANDERSON, 0000
BRIG. GEN. BURWELL B. BELL III, 0000
BRIG. GEN. BRYAN D. BROWN, 0000
BRIG. GEN. JULIAN H. BURNS, JR., 0000
BRIG. GEN. MICHAEL T. BYRNES, 0000
BRIG. GEN. JOHN S. CALDWELL, JR., 0000
BRIG. GEN. REGINAL G. CLEMMONS, 0000
BRIG. GEN. GEORGE F. CLOSE, JR., 0000
BRIG. GEN. CARL H. FREEMAN, 0000
BRIG. GEN. JOSEPH R. INGE, 0000
BRIG. GEN. PHILIP R. KENSINGER, JR., 0000
BRIG. GEN. DONALD L. KERRICK, 0000
BRIG. GEN. LARRY J. LUST, 0000
BRIG. GEN. JOHN J. MARCELLO, 0000
BRIG. GEN. TIMOTHY J. MAUDE, 0000
BRIG. GEN. DAN K. MC NEILL, 4203
BRIG. GEN. PAUL T. MIKOLASHEK, 0000
BRIG. GEN. MARY E. MORGAN, 0000
BRIG. GEN. BRUCE K. SCOTT, 0000
BRIG. GEN. JERRY L. SINN, 0000
BRIG. GEN. JAMES R. SNIDER, 0000
BRIG. GEN. EDWARD SORIANO, 0000
BRIG. GEN. JULIAN A. SULLIVAN, JR., 0000
BRIG. GEN. JOHN D. THOMAS, JR., 0000
BRIG. GEN. HOWARD J. VON KAENEL, 0000
BRIG. GEN. WILLIAM S. WALLACE, 0000
BRIG. GEN. WILLIAM E. WARD, 0000
BRIG. GEN. DAVID S. WEISMAN, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID K. HEEBNER, 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be major general

BRIG. GEN. DARREL P. BAKER, 0000
BRIG. GEN. MURREL J. BOWEN, JR., 0000
BRIG. GEN. JOHN D. HAVENS, 0000
BRIG. GEN. EUGENE S. IMAI, 0000
BRIG. GEN. THOMAS D. KINLEY, 0000
BRIG. GEN. FEDERICO LOPEZ III, 0000
BRIG. GEN. JOEL W. NORMAN, 0000
BRIG. GEN. JOHN C. ROWLAND, 0000

To be brigadier general

COL. JOHN C. ATKINSON, 0000
COL. JOHN A. BATHKE, 0000
COL. WILLIAM H. HALL, 0000
COL. DENNIS A. KAMIMURA, 0000
COL. EUGENE P. KYLNOOT, 0000
COL. DENNIS D. KRSNAK, 0000
COL. BENNY M. PAULINO, 0000
COL. JAMES L. PRUITT, 0000
COL. EDWIN H. ROBERTS, JR., 0000
COL. CHARLES L. ROSENFELD, 0000
COL. JOHN R. SCALES, 0000
COL. JOHN A. TYMESON, 0000
COL. BRIAN D. WINTER, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD A. CHILCOAT, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. THOMAS N. BURNETTE, JR., 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. PAUL J. KERN, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. ERIC K. SHINSEKI, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT S. COFFEY, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN W. HENDRIX, 0000

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. FRANK LIBUTTI, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN E. RHODES, 0000

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE RESERVE TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be rear admiral

REAR ADM. (LH) WILLIAM H. BUTLER, 0000
REAR ADM. (LH) CASEY W. COANE, 0000
REAR ADM. (LH) WILLIAM E. HERRON, 0000
REAR ADM. (LH) STEPHEN T. KEITH, 0000
REAR ADM. (LH) WILLIAM J. LOGAN, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. (LH) HENRY C. GIFFIN III, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be rear admiral

REAR ADM. (LH) TIMOTHY R. BEARD, 0000
REAR ADM. (LH) DAVID L. BREWER III, 0000
REAR ADM. (LH) STANLEY W. BRYANT, 0000
REAR ADM. (LH) TONEY M. BUCCHI, 0000
REAR ADM. (LH) WILLIAM W. COPELAND, JR., 0000
REAR ADM. (LH) JOHN W. CRAINE, JR., 0000
REAR ADM. (LH) ROBERT E. FRICK, 0000
REAR ADM. (LH) PAUL G. GAFFNEY II, 0000
REAR ADM. (LH) EDMUND P. GIAMBASTIANI, JR., 0000
REAR ADM. (LH) JOHN J. GROSSENBACHER, 0000
REAR ADM. (LH) JAMES B. HINKLE, 0000
REAR ADM. (LH) GORDON S. HOLDER, 0000
REAR ADM. (LH) MARTIN J. MAYER, 0000
REAR ADM. (LH) BARBARA E. MC GANN, 0000
REAR ADM. (LH) CHARLES W. MOORE, JR., 0000
REAR ADM. (LH) JOHN B. NATHMAN, 0000
REAR ADM. (LH) WILLIAM R. SCHMIDT, 0000
REAR ADM. (LH) ROBERT C. WILLIAMSON, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be rear admiral (lower half)

CAPT. JOSEPH W. DYER, JR., 0000

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID J. KELLEY, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. RANDOLPH W. HOUSE, 0000

IN THE AIR FORCE

AIR FORCE NOMINATION OF ANDREW J. JORGENSEN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1997.

IN THE ARMY

ARMY NOMINATIONS BEGINNING JOHN A. ADAMS, AND ENDING KENNETH M. YOUNGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 9, 1997.

ARMY NOMINATIONS BEGINNING ROBERT T. ANDERSON, AND ENDING ROBERT J. WYGONSKI, WHICH WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 5, 1997.

ARMY NOMINATIONS BEGINNING CHARLES R. BAILEY, AND ENDING JOHN L. WYDEVEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1997.

ARMY NOMINATIONS BEGINNING CHESSLEY R. ATCHISON, AND ENDING *STEPHEN E. SCHLESS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1997.

ARMY NOMINATIONS BEGINNING ROBERT R. BOTTIN, JR., AND ENDING DIANE P. ROUSSEAU, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 5, 1997.

ARMY NOMINATIONS BEGINNING DOREEN M* AGIN, AND ENDING DONALD G. ZUGNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 10, 1997.

ARMY NOMINATIONS BEGINNING BRET T. ACKERMANN, AND ENDING JOAN H. ZELLER, WHICH WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 10, 1997.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING CATHERINE M. KELLY, AND ENDING RONALD W. REUSCH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 27, 1997.

COAST GUARD NOMINATIONS OF RICHARD W. SANDERS, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1997.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF GILDA A. JACKSON, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 7, 1997.

MARINE CORPS NOMINATION OF RICHARD L. SONGER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1997.

MARINE CORPS NOMINATIONS BEGINNING ROBERT E. BALLARD, AND ENDING PATRICK K WYMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1997.

MARINE CORPS NOMINATIONS BEGINNING DAVID J. BIOW, AND ENDING ANDREW D. ZINN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 2, 1997.

MARINE CORPS NOMINATION OF JOHN M. METTERLE, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 10, 1997.

MARINE CORPS NOMINATION OF JOHN J. EGAN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 10, 1997.

IN THE NAVY

NAVY NOMINATION OF TIMOTHY S. GARROLD, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1997.

NAVY NOMINATIONS BEGINNING JAMES P ADAMS, AND ENDING LEONARD A. ZINGARELLI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 2, 1997.

NAVY NOMINATIONS BEGINNING CHRISTINE L ABELEIN, AND ENDING LARRY L YOUNGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 11, 1997.

H.R. 2014, AS AMENDED AND PASSED

Resolved, That the bill from the House of Representatives (H.R. 2014) entitled ''An Act to provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Revenue Reconciliation Act of 1997''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act 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) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—CHILD TAX CREDIT AND OTHER FAMILY TAX RELIEF

SEC. 101. CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 23 the following new section:

"SEC. 24. CHILD TAX CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year with respect to each qualifying child of the taxpayer an amount equal to $500.

''(b) LIMITATIONS.—

''(1) CREDIT LIMITED TO EDUCATION SAVINGS FOR CERTAIN CHILDREN.—In the case of a qualifying child who has attained the age of 13 as of the close of the calendar year in which the taxable year of the taxpayer begins, the amount of the credit allowed under subsection (a) for such taxable year with respect to such child (after the application of paragraphs (2) and (3)) shall not exceed the excess of—

''(A) the aggregate amount contributed by the taxpayer for such taxable year for the benefit of such child to qualified tuition programs (as defined in section 529) and education individual retirement accounts (as defined in section 530), over

''(B) the aggregate amount distributed during such taxable year from such programs and accounts (the beneficiary of which is such child) which is subject to tax under section 529(f) or 530(c)(3).

''(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—The $500 amount in subsection (a) shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the term 'threshold amount' means—

''(i) $110,000 in the case of a joint return,

''(ii) $75,000 in the case of an individual who is not married, and

''(iii) $55,000 in the case of a married individual filing a separate return.

For purposes of this subparagraph, marital status shall be determined under section 7703.

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate credit allowed by subsection (a) (determined after paragraph (2)) shall not exceed the excess (if any) of—

''(A) the taxpayer's regular tax liability for the taxable year reduced by the credits allowable against such tax under this subpart (other than this section), over

''(B) the sum of—

''(i) the taxpayer's tentative minimum tax for such taxable year (determined without regard to the alternative minimum tax foreign tax credit), plus

''(ii) 50 percent of the credit allowed for the taxable year under section 32.

Any reduction in the credit otherwise allowable by subsection (a) by reason of this paragraph shall be allocated pro rata among all qualifying children for purposes of applying paragraph (1).

''(c) QUALIFYING CHILD.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying child' means any individual if—

''(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

''(B) such individual has not attained the age of 17 (age of 18 in the case of taxable years beginning after 2002) as of the close of the calendar year in which the taxable year of the taxpayer begins, and

''(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

''(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

''(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

''(e) RECAPTURE OF CREDIT.—

''(1) IN GENERAL.—If—

''(A) during any taxable year any amount is withdrawn from a qualified tuition program or an education individual retirement account maintained for the benefit of a beneficiary and such amount is subject to tax under section 529(f) or 530(c)(3), and

''(B) the amount of the credit allowed under this section for the prior taxable year was contingent on a contribution being made to such a program or account for the benefit of such beneficiary,

the taxpayer's tax imposed by this chapter for the taxable year shall be increased by the lesser of the amount described in subparagraph (A) or the credit described in subparagraph (B).

''(2) NO CREDITS AGAINST TAX, ETC.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining—

''(A) the amount of any credit under this subpart or subpart B or D of this part, and

''(B) the amount of the minimum tax imposed by section 55.

''(f) OTHER DEFINITIONS.—For purposes of this section, the terms 'qualified tuition program' and 'education individual retirement account' have the meanings given such terms by section 529 and 530, respectively.

''(g) PHASE-IN OF CREDIT.—In the case of taxable years beginning in 1997—

''(1) subsection (a)(1) shall be applied by substituting '$250' for '$500', and

''(2) subsection (c)(1)(B) shall be applied by substituting 'age of 13' for 'age of 17'.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 26 is amended by inserting ''(other than the credit allowed by section 24)'' after ''credits allowed by this subpart''.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

''Sec. 24. Child tax credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 102. ADJUSTMENT OF MINIMUM TAX EXEMPTION AMOUNTS FOR TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Subsection (d) of section 55 is amended by adding at the end the following new paragraph:

''(4) ADJUSTMENT OF EXEMPTION AMOUNTS FOR TAXPAYERS OTHER THAN CORPORATIONS.—

''(A) TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2000 AND BEFORE JANUARY 1, 2003.—In the case of any calendar year after 2000 and before 2003—

''(i) the dollar amount applicable under paragraph (1)(A) for such a calendar year shall be $600 greater than the dollar amount applicable under paragraph (1)(A) for the prior calendar year, and

''(ii) the dollar amount applicable under paragraph (1)(B) for such a calendar year shall be $450 greater than the dollar amount applicable under paragraph (1)(B) for the prior calendar year.

''(B) TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2002.—In the case of any calendar year after 2002—

''(i) the dollar amount applicable under paragraph (1)(A) for such a calendar year shall be $950 greater than the dollar amount applicable under paragraph (1)(A) for the prior calendar year, and

''(ii) the dollar amount applicable under paragraph (1)(B) for such a calendar year shall be $700 greater than the dollar amount applicable under paragraph (1)(B) for the prior calendar year.

''(C) APPLICATION OF TAXABLE YEARS.—The dollar amount applicable under this paragraph to any calendar year shall apply to taxable years beginning in such calendar year.

''(D) ADJUSTMENT.—The Secretary shall reduce the dollar amounts otherwise in effect under this paragraph for any calendar year to

the extent necessary to increase Federal revenues by the amount the Secretary estimates Federal revenues will be reduced by reason of allowing distributions from education individual retirement accounts under section 530 to be used for qualified elementary and secondary education expenses described in section 530(b)(2)(A)(ii).''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 55(d)(1) is amended by striking ''$22,500'' and inserting ''the amount equal to ½ the dollar amount applicable under subparagraph (A) for the taxable year''.

(2) The last sentence of section 55(d)(3) is amended by striking ''$165,000 or (ii) $22,500'' and inserting ''the minimum amount of such income (as so determined) for which the exemption amount under paragraph (1)(C) is zero, or (ii) such exemption amount (determined without regard to this paragraph)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 103. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified child care expenditures of the taxpayer for such taxable year.

''(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CHILD CARE EXPENDITURE.—The term 'qualified child care expenditure' means any amount paid or incurred—

''(A) to acquire, construct, rehabilitate, or expand property—

''(i) which is to be used as part of a qualified child care facility of the taxpayer,

''(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

''(iii) which does not constitute part of the principal residence (within the meaning of section 1034) of the taxpayer or any employee of the taxpayer,

''(B) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

''(C) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer,

''(D) under a contract to provide child care resource and referral services to employees of the taxpayer, or

''(E) for the costs of seeking accreditation from a child care credentialing or accreditation entity.

''(2) QUALIFIED CHILD CARE FACILITY.—

''(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

''(i) the principal use of which is to provide child care assistance, and

''(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 1034) of the operator of the facility.

''(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

''(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

''(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

''(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

''(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

''(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

''(A) the applicable recapture percentage, and

''(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

''(2) APPLICABLE RECAPTURE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	The applicable recapture percentage is:
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

''(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

''(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

''(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

''(B) CHANGE IN OWNERSHIP.—

''(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

''(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

''(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

''(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

''(f) NO DOUBLE BENEFIT.—

''(1) REDUCTION IN BASIS.—For purposes of this subtitle—

''(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

''(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

''(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

''(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1999.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended—

(A) by striking out ''plus'' at the end of paragraph (11),

(B) by striking out the period at the end of paragraph (12), and inserting a comma and ''plus'', and

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

''(13) the employer-provided child care credit determined under section 45D.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45D. Employer-provided child care credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 104. EXPANSION OF COORDINATED ENFORCEMENT EFFORTS OF INTERNAL REVENUE SERVICE AND HHS OFFICE OF CHILD SUPPORT ENFORCEMENT.

(a) STATE REPORTING OF CUSTODIAL DATA.—Section 454A(e)(4)(D) of the Social Security Act (42 U.S.C. 654(e)(4)(D)) is amended by striking ''the birth date of any child'' and inserting ''the birth date and custodial status of any child''.

(b) MATCHING PROGRAM BY IRS OF CUSTODIAL DATA AND TAX STATUS INFORMATION.—

(1) NATIONAL DIRECTORY OF NEW HIRES.—Section 453(i)(3) of the Social Security Act (42 U.S.C. 653(i)(3)) is amended by striking ''a claim with respect to employment in a tax return'' and inserting ''information which is required on a tax return''.

(2) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—Section 453(h) of the such Act (42 U.S.C. 653(h)) is amended by adding at the end the following:

''(3) ADMINISTRATION OF FEDERAL TAX LAWS.—The Secretary of the Treasury shall have access to the information described in paragraph (2), consisting of the names and social security numbers of the custodial parents linked with the children in the custody of such parents, for the purpose of administering those sections of the Internal Revenue Code of 1986 which grant tax benefits based on support and residence provided dependent children.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

SEC. 105. ADOPTION EXPENSES.

(a) DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PAY ADOPTION EXPENSES.—

(1) IN GENERAL.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following:

''(E) DISTRIBUTIONS FROM CERTAIN PLANS FOR ADOPTION EXPENSES.—Distributions to an individual from an individual retirement plan of so much of the qualified adoption expenses (as defined in section 23(d)(1)) of the individual as does not exceed $2,000.''.

(2) CONFORMING AMENDMENT.—Section 72(t)(2)(B) is amended by striking ''or (D)'' and inserting '', (D) or (E)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments and distributions after December 31, 1996.

TITLE II—EDUCATION INCENTIVES

Subtitle A—Tax Benefits Relating to Education Expenses

SEC. 201. HOPE CREDIT FOR HIGHER EDUCATION TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25 the following new section:

''SEC. 25A. HIGHER EDUCATION TUITION AND RELATED EXPENSES.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount equal to 50 percent of qualified tuition and related expenses paid by the taxpayer during such taxable year for education furnished during any academic period beginning in such year.

''(2) SPECIAL RULE FOR EDUCATION AT COMMUNITY COLLEGES AND VOCATIONAL SCHOOLS.—In the case of qualified tuition and related expenses for education furnished at a community college or vocational school, paragraph (1) shall be applied by substituting '75 percent' for '50 percent'.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—The amount allowed as a credit under subsection (a) for any taxable year with respect to the qualified tuition and related expenses of any 1 individual shall not exceed $1,500.

''(2) ELECTION REQUIRED.—

''(A) IN GENERAL.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless the taxpayer elects to have this section apply with respect to such individual for such year.

''(B) CREDIT ALLOWED ONLY FOR 2 TAXABLE YEARS.—An election under this paragraph shall not take effect with respect to an individual for any taxable year if an election under this paragraph (by the taxpayer or any other individual) is in effect with respect to such individual for any 2 prior taxable years.

''(C) COORDINATION WITH EXCLUSIONS.—An election under this paragraph shall not take effect with respect to an individual for any taxable year if there is in effect for such taxable year an election under section 529(c)(3)(B) or 530(c)(1) (by the taxpayer or any other individual) to exclude from gross income distributions from a qualified tuition program or education individual retirement account used to pay qualified higher education expenses of the individual.

''(3) CREDIT ALLOWED FOR YEAR ONLY IF INDIVIDUAL IS AT LEAST ½ TIME STUDENT FOR PORTION OF YEAR.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless such individual is an eligible student for at least one academic period which begins during such year.

''(4) CREDIT ALLOWED ONLY FOR FIRST TWO YEARS OF POSTSECONDARY EDUCATION.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual if the individual has completed (before the beginning of such taxable year) the first 2 years of postsecondary education at an eligible educational institution.

''(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

''(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

''(A) the excess of—

''(i) the taxpayer's modified adjusted gross income for such taxable year, over

''(ii) $40,000 ($80,000 in the case of a joint return), bears to

''(B) $10,000 ($20,000 in the case of a joint return).

''(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED TUITION AND RELATED EXPENSES.—

''(A) IN GENERAL.—The term 'qualified tuition and related expenses' means tuition and fees required for the enrollment or attendance of—

''(i) the taxpayer,

''(ii) the taxpayer's spouse, or

''(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an eligible educational institution and books required for courses of instruction of such individual at such institution.

''(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

''(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.

''(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an institution—

''(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

''(B) which is eligible to participate in a program under title IV of such Act.

''(3) ELIGIBLE STUDENT.—The term 'eligible student' means, with respect to any academic period, a student who—

''(A) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

''(B) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing.

''(4) COMMUNITY COLLEGE.—The term 'community college' means any institution of higher education (as defined in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141)) that awards an associate's degree.

''(5) VOCATIONAL SCHOOL.—The term 'vocational school' means a postsecondary vocational institution (as defined in section 481 of such Act (20 U.S.C. 1088)).

''(e) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

''(1) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year, and

''(2) qualified tuition and related expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

''(f) TREATMENT OF CERTAIN PREPAYMENTS.—If qualified tuition and related expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

''(g) SPECIAL RULES.—

''(1) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under subsection (a) to a taxpayer with respect to the qualified tuition and related expenses of an individual unless the taxpayer includes the name and taxpayer identification number of such individual on the return of tax for the taxable year.

''(2) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS, ETC.—The amount of qualified tuition and related expenses otherwise taken into account under subsection (a) with respect to an individual for an academic period shall be reduced (before the application of subsections (b) and (c)) by the sum of any amounts paid for the benefit of such individual which are allocable to such period as—

''(A) a qualified scholarship which is excludable from gross income under section 117,

''(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code, and

''(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an eligible educational institution, which is excludable from gross income under any law of the United States.

''(3) DENIAL OF CREDIT IF STUDENT CONVICTED OF A FELONY DRUG OFFENSE.—No credit shall be allowed under subsection (a) for qualified tuition and related expenses for the enrollment or attendance of a student for any academic period if such student has been convicted of a Federal or State felony offense consisting of the possession or distribution of a controlled substance before the end of the taxable year with or within which such period ends.

''(4) DENIAL OF CREDIT WHERE NO HIGH SCHOOL DEGREE.—No credit shall be allowed under subsection (a) for qualified tuition and related expenses for the enrollment or attendance of a student for any academic period if such student has not received a high school degree (or its equivalent) before the beginning of such period. This paragraph shall not apply to a student if the student did not receive such degree by reason of enrollment in an early admission program to an eligible educational institution.

''(5) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any expense for which a deduction is allowed under any other provision of this chapter.

''(6) NO CREDIT FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a

married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(7) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

''(h) INFLATION ADJUSTMENTS.—

''(1) DOLLAR LIMITATION ON AMOUNT OF CREDIT.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 1998, the $1,500 amount in subsection (b)(1) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

''(2) INCOME LIMITS.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 2000, the $40,000 and $80,000 amounts in subsection (c)(2) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

''(i) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.''.

(b) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by inserting after subparagraph (H) the following new subparagraph:

''(I) an omission of a correct TIN required under section 25A(g)(1) (relating to higher education tuition and related expenses) to be included on a return.''.

(c) RETURNS RELATING TO TUITION AND RELATED EXPENSES.—

(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 inserting after section 6050R the following new section:

''SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES.

''(a) IN GENERAL.—Any person—

''(1) which is an eligible educational institution which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

''(2) which is engaged in a trade or business and which, in the course of such trade or business, makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe,

''(2) contains—

''(A) the name, address, and TIN of the individual with respect to whom payments described in subsection (a) were received from (or were paid to),

''(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year, and

''(C) the—

''(i) aggregate amount of payments for qualified tuition and related expenses received with respect to the individual described in subparagraph (A) during the calendar year, and

''(ii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year, and

''(D) such other information as the Secretary may prescribe.

''(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of this section—

''(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

''(2) any return required under subsection (a) by such governmental entity shall be made by the officer or employee appropriately designated for the purpose of making such return.

''(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) or (B) of subsection (b)(2) a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return, and

''(2) the aggregate amounts described in subparagraph (C) of subsection (b)(2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

''(e) DEFINITIONS.—For purposes of this section, the terms 'eligible educational institution' and 'qualified tuition and related expenses' have the meanings given such terms by section 25A.

''(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under section 6724 with respect to any return or statement required under this section until such time as such regulations are issued.''.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

''(ix) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),''.

(B) Paragraph (2) of section 6724(d) is amended by striking ''or'' at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting '', or'', and by adding at the end the following new subparagraph:

''(Z) section 6050S(d) (relating to returns relating to qualified tuition and related expenses).''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050R the following new item:

''Sec. 6050S. Returns relating to higher education tuition and related expenses.''.

(d) COORDINATION WITH SECTION 135.—Subsection (d) of section 135 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) COORDINATION WITH HIGHER EDUCATION CREDIT.—The amount of the qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the amount of such expenses which are taken into account in determining the credit allowable to the taxpayer or any other person under section 25A with respect to such expenses.''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25 the following new item:

''Sec. 25A. Higher education tuition and related expenses.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid after December 31, 1997 (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

SEC. 202. DEDUCTION FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

''SEC. 221. INTEREST ON EDUCATION LOANS.

''(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

''(b) MAXIMUM DEDUCTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the deduction allowed by subsection (a) for the taxable year shall not exceed $2,500.

''(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—The amount which would (but for this paragraph) be allowable as a deduction under this section shall be reduced (but not below zero) by the amount determined under paragraph (2).

''(B) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

''(i) the excess of—

''(I) the taxpayer's modified adjusted gross income for such taxable year, over

''(II) $40,000 ($80,000 in the case of a joint return), bears to

''(ii) $10,000 ($20,000 in the case of a joint return).

''(C) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined—

''(i) without regard to this section and sections 135, 911, 931, and 933, and

''(ii) after application of sections 86, 219, and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

''(c) DEPENDENTS NOT ELIGIBLE FOR DEDUCTION.—No deduction shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

''(d) LIMIT ON PERIOD DEDUCTION ALLOWED.—A deduction shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

''(e) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

''(A) which are incurred on behalf of the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer as of the time the indebtedness was incurred,

''(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

''(C) which are attributable to education furnished during a period during which the recipient was an eligible student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

''(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the day before the date of the enactment of this Act) at an eligible educational institution, reduced by the sum of—

''(A) the amount excluded from gross income under section 135, 529, or 530 by reason of such expenses, and

''(B) the amount of any scholarship, allowance, or payment described in section 25A(g)(2). For purposes of the preceding sentence, the term 'eligible educational institution' has the same meaning given such term by section 25A(d)(2), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

''(3) ELIGIBLE STUDENT.—The term 'eligible student' has the meaning given such term by section 25A(d)(3).

''(4) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

''(f) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

''(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.

''(g) INFLATION ADJUSTMENTS.—

''(1) DOLLAR LIMITATION ON AMOUNT OF CREDIT.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 1998, the $2,500 amount in subsection (b)(1) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

''(2) INCOME LIMITS.—In the case of a taxable year beginning in a calendar year after 2000, the $40,000 and $80,000 amounts in subsection (b)(2) shall each be increased by the amount the $40,000 and $80,000 amounts under section 25A(c)(2) are increased for taxable years beginning in such calendar year.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (16) the following new paragraph:

''(17) INTEREST ON EDUCATION LOANS.—The deduction allowed by section 221.''.

(c) REPORTING REQUIREMENT.—

(1) IN GENERAL.—Section 6050S(a)(2) (relating to returns relating to higher education tuition and related expenses) is amended to read as follows:

''(2) which is engaged in a trade or business and which, in the course of such trade or business—

''(A) makes payments during any calendar year to any individual which constitutes reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual, or

''(B) except as provided in regulations, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans,''.

(2) INFORMATION.—Section 6050S(b)(2) is amended—

(A) by inserting ''or interest'' after ''payments'' in subparagraph (A), and

(B) in subparagraph (C), by striking ''and'' at the end of clause (i), by inserting ''and'' at the end of clause (ii), and by inserting after clause (ii) the following:

''(iii) aggregate amount of interest received for the calendar year from such individual,''.

(3) DEFINITION.—Section 6050S(e) is amended by inserting '', and except as provided in regulations, the term 'qualified education loan' has the meaning given such term by section 221(e)(1)'' after ''section 25A''.

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

''Sec. 221. Interest on education loans.

''Sec. 222. Cross reference.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 221(e)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with respect to—

(1) any loan interest payment due after December 31, 1996, and

(2) the portion of the 60-month period referred to in section 221(d) of the Internal Revenue Code of 1986 (as added by this section) after December 31, 1996.

SEC. 203. PENALTY-FREE WITHDRAWALS FROM INDIVIDUAL RETIREMENT PLANS FOR HIGHER EDUCATION EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

''(E) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR HIGHER EDUCATION EXPENSES.—Distributions to an individual from an individual retirement plan to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year. Distributions shall not be taken into account under the preceding sentence if such distributions are described in subparagraph (A), (C), or (D) or to the extent paragraph (1) does not apply to such distributions by reason of subparagraph (B).''.

(b) DEFINITION.—Section 72(t) is amended by adding at the end the following new paragraph:

''(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(E)—

''(A) IN GENERAL.—The term 'qualified higher education expenses' means qualified higher education expenses (as defined in section 529(e)(3)) for education furnished to—

''(i) the taxpayer,

''(ii) the taxpayer's spouse, or

''(iii) any child (as defined in section 151(c)(3)) or grandchild of the taxpayer or the taxpayer's spouse,

at an eligible educational institution (as defined in section 529(e)(5)).

''(B) COORDINATION WITH OTHER BENEFITS.—The amount of qualified higher education expenses for any taxable year shall be reduced as provided in section 25A(g)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1997, with respect to expenses paid after such date (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

Subtitle B—Expanded Education Investment Savings Opportunities

PART I—QUALIFIED TUITION PROGRAMS

SEC. 211. EXCLUSION FROM GROSS INCOME OF EDUCATION DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS.

(a) IN GENERAL.—Subparagraph (B) of section 529(c)(3) (relating to distributions) is amended to read as follows:

''(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—If a distributee elects the application of this subparagraph for any taxable year—

''(i) no amount shall be includible in gross income by reason of a distribution which consists of providing a benefit to the distributee which, if paid for by the distributee, would constitute payment of a qualified higher education expense, and

''(ii) the amount which (but for the election) would be includible in gross income by reason of any other distribution shall not be so includible in an amount which bears the same ratio to the amount which would be so includible as the amount of the qualified higher education expenses of the distributee bears to the amount of the distribution.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1997, for education furnished in academic periods beginning after such date.

SEC. 212. ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS; OTHER MODIFICATIONS OF QUALIFIED STATE TUITION PROGRAMS.

(a) ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.—Paragraph (1) of section 529(b) (defining qualified State tuition program) is amended by inserting ''or by one or more eligible educational institutions'' after ''maintained by a State or agency or instrumentality thereof''.

(b) QUALIFIED HIGHER EDUCATION EXPENSES TO INCLUDE ROOM AND BOARD.—Paragraph (3) of section 529(e) (defining qualified higher education expenses) is amended to read as follows:

''(3) QUALIFIED HIGHER EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible education institution.

''(B) ROOM AND BOARD INCLUDED FOR STUDENTS WHO ARE AT LEAST HALF-TIME.—In the case of an individual who is an eligible student

(as defined in section 25A(d)(3)) for any academic period, such term shall also include reasonable costs for such period (as determined under the qualified tuition program) incurred by the designated beneficiary for room and board while attending such institution. The amount treated as qualified higher education expenses by reason of the preceding sentence shall not exceed the minimum amount (applicable to the student) included for room and board for such period in the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the date of the enactment of this paragraph) for the eligible educational institution for such period.''.

(c) ADDITIONAL MODIFICATIONS.—

(1) MEMBER OF FAMILY.—Paragraph (2) of section 529(e) (relating to other definitions and special rules) is amended to read as follows:

''(2) MEMBER OF FAMILY.—The term 'member of the family' means—

''(A) an individual who bears a relationship to another individual which is a relationship described in paragraphs (1) through (8) of section 152(a), and

''(B) the spouse of any individual described in subparagraph (A).''.

(2) ELIGIBLE EDUCATIONAL INSTITUTION.—Section 529(e) is amended by adding at the end the following:

''(5) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an institution—

''(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this paragraph, and

''(B) which is eligible to participate in a program under title IV of such Act.''.

(3) NO CONTRIBUTIONS AFTER BENEFICIARY ATTAINS AGE 18; DISTRIBUTIONS REQUIRED IN CERTAIN CASES.—

(A) IN GENERAL.—Subsection (b) of section 529 is amended by adding at the end the following new paragraph:

''(8) RESTRICTIONS RELATING TO AGE OF BENEFICIARY; COMPLETION OF EDUCATION.—

''(A) IN GENERAL.—A program shall be treated as a qualified tuition program only if—

''(i) no contribution is accepted on behalf of a designated beneficiary after the date on which such beneficiary attains age 18, and

''(ii) any balance to the credit of a designated beneficiary (if any) on the account termination date shall be distributed within 30 days after such date to such beneficiary (or in the case of death, the estate of the beneficiary).

''(B) ACCOUNT TERMINATION DATE.—For purposes of subparagraph (A), the term 'account termination date' means whichever of the following dates is the earliest:

''(i) The date on which the designated beneficiary attains age 30.

''(ii) The date on which the designated beneficiary dies.''.

(B) ROLLOVERS.—Section 529(c)(3) is amended by adding at the end the following:

''(E) ROLLOVERS TO IRA PLUS ACCOUNTS AT AGE 30.—Subparagraph (A) shall not apply to any distribution to the designated beneficiary required under subsection (b)(8) by reason of the beneficiary attaining age 30 to the extent the beneficiary, within 60 days of the distribution, transfers such distribution to an IRA Plus account established on the individual's behalf.''.

(C) CONFORMING AMENDMENTS.—

(i) Section 408(a)(1) is amended by striking ''or 403(b)(8)'' and inserting ''403(b)(8), or 529(c)(3)(E)''.

(ii) Subparagraph (A) of section 4973(b)(1) is amended by striking ''or 408(b)(3)'' and inserting ''408(b)(3), or 529(c)(3)(E)''.

(4) ESTATE AND GIFT TAX TREATMENT.—

(A) GIFT TAX TREATMENT.—

(i) Paragraph (2) of section 529(c) is amended to read as follows:

''(2) GIFT TAX TREATMENT OF CONTRIBUTIONS.—For purposes of chapters 12 and 13, any contribution to a qualified tuition program on behalf of any designated beneficiary shall not be treated as a taxable gift.''.

(ii) Paragraph (5) of section 529(c) is amended to read as follows:

''(5) OTHER GIFT TAX RULES.—For purposes of chapters 12 and 13—

''(A) TREATMENT OF DISTRIBUTIONS.—In no event shall a distribution from a qualified tuition program be treated as a taxable gift.

''(B) TREATMENT OF DESIGNATION OF NEW BENEFICIARY.—The taxes imposed by chapters 12 and 13 shall apply to a transfer by reason of a change in the designated beneficiary under the program (or a rollover to the account of a new beneficiary) only if the new beneficiary is a generation below the generation of the old beneficiary (determined in accordance with section 2651).''.

(B) ESTATE TAX TREATMENT.—Paragraph (4) of section 529(c) is amended to read as follows:

''(4) ESTATE TAX TREATMENT.—

''(A) IN GENERAL.—No amount shall be includible in the gross estate of any individual for purposes of chapter 11 by reason of an interest in a qualified tuition program.

''(B) AMOUNTS INCLUDIBLE IN ESTATE OF DESIGNATED BENEFICIARY IN CERTAIN CASES.—Subparagraph (A) shall not apply to amounts distributed on account of the death of a beneficiary.''.

(5) LIMITATION ON CONTRIBUTIONS TO QUALIFIED TUITION PROGRAMS NOT MAINTAINED BY A STATE.—Subsection (b) of section 529 is amended by adding at the end the following new paragraph:

''(9) LIMITATION ON CONTRIBUTIONS TO QUALIFIED TUITION PROGRAMS NOT MAINTAINED BY A STATE.—In the case of a program not maintained by a State or agency or instrumentality thereof, such program shall not be treated as a qualified tuition program unless it limits the annual contribution to the program on behalf of a designated beneficiary to the sum of $2,000 plus the amount of the credit allowable under section 25A for 1 qualifying child.''.

(d) ADDITIONAL TAX ON AMOUNTS NOT USED FOR HIGHER EDUCATION EXPENSES.—Section 529 is amended by adding at the end the following new subsection:

''(f) IMPOSITION OF ADDITIONAL TAX.—

''(1) IN GENERAL.—In the case of a qualified tuition program not maintained by a State or any agency or instrumentality thereof, the tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from such program which is includible in gross income shall be increased by 10 percent of the amount which is so includible.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply if the payment or distribution is—

''(A) made to a beneficiary (or to the estate of the designated beneficiary) on or after the death of the designated beneficiary,

''(B) attributable to the designated beneficiary's being disabled (within the meaning of section 72(m)(7)), or

''(C) made on account of a scholarship, allowance, or payment described in section 25A(g)(2) received by the account holder to the extent the amount of the payment or distribution does not exceed the amount of the scholarship, allowance, or payment.

''(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—In the case of a qualified tuition program not maintained by a State or any agency or instrumentality thereof, paragraph (1) shall not apply to the distribution to a contributor of any contribution made during a taxable year on behalf of a designated beneficiary to the extent that such contribution exceeds the limitation in section 4973(e) if—

''(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such contributor's return for such taxable year, and

''(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the contributor for the taxable year in which such excess contribution was made.''.

(e) COORDINATION WITH EDUCATION SAVINGS BOND.—Section 135(c)(2) (defining qualified higher education expenses) is amended by adding at the end the following:

''(C) CONTRIBUTIONS TO QUALIFIED TUITION PROGRAM.—Such term shall include any contribution to a qualified tuition program (as defined in section 529) on behalf of a designated beneficiary (as defined in such section) who is an individual described in subparagraph (A); but there shall be no increase in the investment in the contract for purposes of applying section 72 by reason of any portion of such contribution which is not includible in gross income by reason of this subparagraph.''.

(f) TAX ON EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (a) of section 4973 is amended by striking ''or'' at the end of paragraph (2) and by inserting after paragraph (3) the following new paragraphs:

''(4) a qualified tuition program (as defined in section 529) not maintained by a State or any agency or instrumentality thereof, or

''(5) an education individual retirement account (as defined in section 530),''.

(2) EXCESS CONTRIBUTIONS DEFINED.—Section 4973 is amended by adding at the end the following new subsection:

''(e) EXCESS CONTRIBUTIONS TO PRIVATE QUALIFIED TUITION PROGRAM AND EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.—For purposes of this section—

''(1) IN GENERAL.—In the case of private education investment accounts maintained for the benefit of any 1 beneficiary, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to such accounts exceeds the sum of $2,000 plus the amount of the credit allowed under section 25A for such beneficiary for such taxable year.

''(2) PRIVATE EDUCATION INVESTMENT ACCOUNT.—For purposes of paragraph (1), the term 'private education investment account' means—

''(A) a qualified tuition program (as defined in section 529) not maintained by a State or any agency or instrumentality thereof, and

''(B) an education individual retirement account (as defined in section 530).

''(3) SPECIAL RULES.—For purposes of paragraph (1), the following contributions shall not be taken into account:

''(A) Any contribution which is distributed out of the education individual retirement account in a distribution to which section 530(c)(3)(B) applies.

''(B) Any contribution to a qualified tuition program (as so defined) described in section 530(b)(2)(B) from any such account.

''(C) Any rollover contribution.''.

(g) CLARIFICATION OF TAXATION OF DISTRIBUTIONS.—Subparagraph (A) of section 529(c)(3) is amended to read as follows:

''(A) IN GENERAL.—Any distribution from a qualified tuition program—

''(i) shall be includible in the gross income of the distributee to the extent allocable to income under the program, and

''(ii) shall not be includible in gross income to the extent allocable to the investment in the contract.

For purposes of the preceding sentence, rules similar to the rules of section 72(e)(3) shall apply.''.

(h) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 26(b) is amended by redesignating subparagraphs (E) through (P) as subparagraphs (F) through (Q), respectively, and by inserting after subparagraph (D) the following new subparagraph:

''(E) section 529(f) (relating to additional tax on certain distributions from qualified tuition programs),''.

(2) The text of section 529 is amended by striking ''qualified State tuition program'' each

place it appears and inserting ''qualified tuition program''.

(3)(A) The section heading of section 529 is amended to read as follows:

''SEC. 529. QUALIFIED TUITION PROGRAMS.''.

(B) The item relating to section 529 in the table of sections for part VIII of subchapter F of chapter 1 is amended by striking ''State''.

(4)(A) The heading for part VIII of subchapter F of chapter 1 is amended to read as follows:

''PART VIII—HIGHER EDUCATION SAVINGS ENTITIES''.

(B) The table of parts for subchapter F of chapter 1 is amended by striking the item relating to part VIII and inserting:

''Part VIII. Higher education savings entities.''.

(5)(A) Section 529(d) is amended to read as follows:

''(d) REPORTS.—Each officer or employee having control of the qualified tuition program or their designee shall make such reports regarding such program to the Secretary and to designated beneficiaries with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.''.

(B) Paragraph (2) of section 6693(a) (relating to failure to provide reports on individual retirement accounts or annuities) 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 the following new subparagraph:

''(C) Section 529(d) (relating to qualified tuition programs).''.

(C) The section heading for section 6693 is amended by striking ''**INDIVIDUAL RETIREMENT**'' and inserting ''**CERTAIN TAX-FAVORED**''.

(D) The item relating to section 6693 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''individual retirement'' and inserting ''certain tax-favored''.

(i) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 1998.

(2) EXPENSES TO INCLUDE ROOM AND BOARD, ETC.—The amendments made by subsection (b) and (c)(2) shall apply to distributions after December 31, 1997, with respect to expenses paid after such date (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

(3) COORDINATION WITH EDUCATION SAVINGS BONDS.—The amendment made by subsection (e) shall apply to taxable years beginning after December 31, 1997.

(4) ESTATE AND GIFT TAX CHANGES.—

(A) GIFT TAX CHANGES.—Paragraphs (2) and (5) of section 529(c) of the Internal Revenue Code of 1986, as amended by this section, shall apply to transfers (including designations of new beneficiaries) made after the date of the enactment of this Act.

(B) ESTATE TAX CHANGES.—Paragraph (4) of such section 529(c) shall apply to estates of decedents dying after June 8, 1997.

(5) REPORTING.—The amendments made by subsection (g) shall apply after June 16, 1997.

PART II—EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS

SEC. 213. EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Part VIII of subchapter F of chapter 1 (relating to qualified State tuition programs) is amended by adding at the end the following new section:

''SEC. 530. EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

''(a) GENERAL RULE.—An education individual retirement account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, the education individual retirement account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

''(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) EDUCATION INDIVIDUAL RETIREMENT ACCOUNT.—The term 'education individual retirement account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified education expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

''(A) No contribution will be accepted—

''(i) unless it is in cash,

''(ii) after the date on which the account holder attains age 18, or

''(iii) except in the case of rollover contributions, if such contribution would result in aggregate contributions for the taxable year exceeding the sum of—

''(I) $2,000, plus

''(II) the amount of the credit allowable under section 25A for the taxable year for 1 qualifying child.

''(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

''(C) No part of the trust assets will be invested in life insurance contracts.

''(D) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

''(E) Upon the death of the account holder, any balance in the account will be distributed as required under section 529(b)(8) (as if such account were a qualified tuition program).

''(F) The account becomes an IRA Plus as of the date the account holder attains age 30 (and meets all requirements for an IRA Plus on and after such date), unless the account holder elects to have sections 529(b)(8) apply as of such date (as if such account were a qualified tuition program).

''(2) QUALIFIED EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified education expenses' means—

''(i) qualified higher education expenses (as defined in section 529(e)(3), and

''(ii) in the case of taxable years beginning after December 31, 2000, qualified elementary and secondary education expenses (as defined in paragraph (5)).

''(B) QUALIFIED TUITION PROGRAMS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified tuition program (as defined in section 529(b)) for the benefit of the account holder.

''(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' has the meaning given such term by section 529(e)(5).

''(4) ACCOUNT HOLDER.—The term 'account holder' means the individual for whose benefit the education individual retirement account is established.

''(5) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means tuition, fees, tutoring, special needs services, books, supplies, equipment, transportation, and supplementary expenses required for the enrollment or attendance at a public, private, or sectarian school of any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151.

''(B) SPECIAL RULE FOR HOMESCHOOLING.—Such term shall include expenses described in subparagraph (A) required for education provided for homeschooling if the requirements of any applicable State or local law are met with respect to such education.

''(C) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (through grade 12), as determined under State law.

''(c) TAX TREATMENT OF DISTRIBUTIONS.—

''(1) IN GENERAL.—Any amount paid or distributed shall be includible in gross income to the extent required by section 529(c)(3) (determined as if such account were a qualified tuition program and as if qualified higher education expenses include qualified education expenses).

''(2) SPECIAL RULES FOR APPLYING ESTATE AND GIFT TAXES WITH RESPECT TO ACCOUNT.—Rules similar to the rules of paragraphs (2), (4), and (5) of section 529(c) shall apply for purposes of this section.

''(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR EDUCATIONAL EXPENSES.—

''(A) IN GENERAL.—The tax imposed by section 529(f) shall apply to payments and distributions from an education individual retirement account in the same manner as such tax applies to qualified tuition programs (as defined in section 529), except that section 529(f) shall be applied by reference to qualified education expenses.

''(B) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution to a contributor of any contribution paid during a taxable year to an education individual retirement account to the extent that such contribution exceeds the limitation in section 4973(e) if such distribution (and the net income with respect to such excess contribution) meet requirements comparable to the requirements of section 529(f)(3).

''(4) ROLLOVER CONTRIBUTIONS.—Paragraph (1) shall not apply to any amount paid or distributed from an education individual retirement account to the extent that the amount received is paid into another education individual retirement account for the benefit of the account holder or a member of the family (within the meaning of section 529(e)(2)) of the account holder not later than the 60th day after the date of such payment or distribution. The preceding sentence shall not apply to any payment or distribution if it applied to any prior payment or distribution during the 12-month period ending on the date of the payment or distribution.

''(5) CHANGE IN ACCOUNT HOLDER.—Any change in the account holder of an education individual retirement account shall not be treated as a distribution for purposes of paragraph (1) if the new account holder is a member of the family (as so defined) of the old account holder.

''(6) SPECIAL RULES FOR DEATH AND DIVORCE.—Rules similar to the rules of paragraphs (7) and (8) of section 220(f) shall apply.

''(d) TAX TREATMENT OF ACCOUNTS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to any education individual retirement account.

''(e) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

''(f) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an account described in subsection (b)(1). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

''(g) REPORTS.—The trustee of an education individual retirement account shall make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary may require under regulations.

The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.''.

(b) TAX ON PROHIBITED TRANSACTIONS.—

(1) IN GENERAL.—Paragraph (1) of section 4975(e) (relating to prohibited transactions) is amended by striking ''or'' at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

''(E) an education individual retirement account described in section 530, or''.

(2) SPECIAL RULE.—Subsection (c) of section 4975 is amended by adding at the end of subsection (c) the following new paragraph:

''(5) SPECIAL RULE FOR EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.—An individual for whose benefit an education individual retirement account is established and any contributor to such account shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if section 530(d) applies with respect to such transaction.''.

(c) FAILURE TO PROVIDE REPORTS ON EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.—Paragraph (2) of section 6693(a) (relating to failure to provide reports on individual retirement accounts or annuities) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) Section 530(g) (relating to education individual retirement accounts).''.

(d) TECHNICAL AMENDMENTS.—

(1) Subparagraph (F) of section 26(b)(2), as added by the preceding section, is amended by inserting before the comma ''and section 530(c)(3) (relating to additional tax on certain distributions from education individual retirement accounts)''.

(2) Subparagraph (C) of section 135(c)(2), as added by the preceding section, is amended by inserting '', or to an education individual retirement account (as defined in section 530) on behalf of an account holder (as defined in such section),'' after ''(as defined in such section)''.

(3) The table of sections for part VIII of subchapter F of chapter 1 is amended by adding at the end the following new item:

''Sec. 530. Education individual retirement accounts.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle C—Other Education Initiatives

SEC. 221. EXTENSION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Section 127 (relating to educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) REPEAL OF LIMITATION ON GRADUATE EDUCATION.—The last sentence of section 127(c)(1) is amended by striking '', and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree''.

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

(2) GRADUATE EDUCATION.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after December 31, 1996.

SEC. 222. REPEAL OF LIMITATION ON QUALIFIED 501(c)(3) BONDS OTHER THAN HOSPITAL BONDS.

Section 145(b) (relating to qualified 501(c)(3) bond) is amended by adding at the end the following new paragraph:

''(5) TERMINATION OF LIMITATION.—This subsection shall not apply with respect to bonds issued after the date of the enactment of this paragraph to finance capital expenditures incurred after such date.''.

SEC. 223. INCREASE IN ARBITRAGE REBATE EXCEPTION FOR GOVERNMENTAL BONDS USED TO FINANCE EDUCATION FACILITIES.

(a) IN GENERAL.—Section 148(f)(4)(D) (relating to exception for governmental units issuing $5,000,000 or less of bonds) is amended by adding at the end the following new clause:

''(vii) INCREASE IN EXCEPTION FOR BONDS FINANCING PUBLIC SCHOOL CAPITAL EXPENDITURES.—Each of the $5,000,000 amounts in the preceding provisions of this subparagraph shall be increased by the lesser of $5,000,000 or so much of the aggregate face amount of the bonds as are attributable to financing the construction (within the meaning of subparagraph (C)(iv)) of public school facilities.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1997.

SEC. 224. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS NOT TO APPLY TO CERTAIN CONTINUING EDUCATION EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Section 67(b) (defining miscellaneous itemized deductions) is amended by striking ''and'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', and'', and by adding at the end the following:

''(13) any deduction allowable for the qualified professional development expenses of an eligible teacher.''.

(b) DEFINITIONS.—Section 67 is amended by adding at the end the following new subsection:

''(g) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES OF ELIGIBLE TEACHERS.—For purposes of subsection (b)(13)—

''(1) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.—

''(A) IN GENERAL.—The term 'qualified professional development expenses' means expenses—

''(i) for tuition, fees, books, supplies, equipment, and transportation required for the enrollment or attendance of an individual in a qualified course of instruction, and

''(ii) with respect to which a deduction is allowable under section 162 (determined without regard to this section).

''(B) QUALIFIED COURSE OF INSTRUCTION.—The term 'qualified course of instruction' means a course of instruction which—

''(i) is at an institution of higher education (as defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this subsection), and

''(ii) is part of a program of professional development which is approved and certified by the appropriate local educational agency as directly related to—

''(I) an increase in the individual's knowledge of content areas the individual is required to teach,

''(II) the improvement of the individual's capacity to teach students to the standards of the local educational agency, or

''(III) the improvement of the individual's capacity to use learning technology in teaching.

''(C) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given such term by section 14101 of the Elementary and Secondary Education Act of 1965, as so in effect.

''(2) ELIGIBLE TEACHER.—

''(A) IN GENERAL.—The term 'eligible teacher' means an individual who—

''(i) is a kindergarten through grade 12 teacher in an elementary or secondary school, and

''(ii) has completed at least 2 academic years as a teacher described in subparagraph (A) before the qualified professional development expenses of the individual have been incurred.

''(B) ELEMENTARY OR SECONDARY SCHOOL.—The terms 'elementary school' and 'secondary school' have the meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), as so in effect.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 225. TREATMENT OF CANCELLATION OF CERTAIN STUDENT LOANS.

(a) CERTAIN LOANS BY EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Paragraph (2) of section 108(f) (defining student loan) is amended by striking ''or'' at the end of subparagraph (B) and by striking subparagraph (D) and inserting the following:

''(D) any educational organization described in section 170(b)(1)(A)(ii) if such loan is made—

''(i) pursuant to an agreement with any entity described in subparagraph (A), (B), or (C) under which the funds from which the loan was made were provided to such educational organization, or

''(ii) pursuant to a program of such educational organization which is designed to encourage its students to serve in occupations with unmet needs or in areas with unmet needs and under which the services provided by the students (or former students) are for or under the direction of a governmental unit or an organization described in section 501(c)(3) and exempt from tax under section 501(a).

The term 'student loan' includes any loan made by an educational organization so described or by an organization exempt from tax under section 501(a) to refinance a loan meeting the requirements of the preceding sentence.''.

(2) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Subsection (f) of section 108 is amended by adding at the end the following new paragraph:

''(3) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Paragraph (1) shall not apply to the discharge of a loan made by an organization described in paragraph (2)(D) (or by an organization described in paragraph (2)(E) from funds provided by an organization described in paragraph (2)(D)) if the discharge is on account of services performed for either such organization.''.

(b) CERTAIN STUDENT LOANS THE REPAYMENT OF WHICH IS INCOME CONTINGENT.—Paragraph (1) of section 108(f) is amended by striking ''any student loan if'' and all that follows and inserting ''any student loan if—

''(A) such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers, or

''(B) in the case of a loan made under part D of title IV of the Higher Education Act of 1965 which has a repayment schedule established under section 455(e)(4) of such Act (relating to income contingent repayments), such discharge is after the maximum repayment period under such loan (as prescribed under such part).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act.

TITLE III—SAVINGS AND INVESTMENT INCENTIVES

Subtitle A—Retirement Savings

SEC. 301. RESTORATION OF IRA DEDUCTION FOR CERTAIN TAXPAYERS.

(a) INCREASE IN INCOME LIMITS APPLICABLE TO ACTIVE PARTICIPANTS.—

(1) IN GENERAL.—Subparagraph (B) of section 219(g)(3) (relating to applicable dollar amount) is amended to read as follows:

''(B) APPLICABLE DOLLAR AMOUNT.—The term 'applicable dollar amount' means the following:

''(i) In the case of a taxpayer filing a joint return:

''For taxable years beginning in:	The applicable dollar amount is:
1998 or 1999	$50,000
2000 or 2001	$60,000
2002 or 2003	$70,000
2004 and thereafter	$80,000.

''(ii) In the case of any other taxpayer (other than a married individual filing a separate return):

''For taxable years beginning in:	The applicable dollar amount is:
1998 or 1999	$30,000
2000 or 2001	$35,000
2002 or 2003	$40,000
2004 and thereafter	$50,000.

''(iii) In the case of a married individual filing a separate return, zero.''.

(2) INCREASE IN PHASE-OUT RANGE FOR JOINT RETURNS.—Clause (ii) of section 219(g)(2)(A) is amended by inserting ''($20,000 in the case of a joint return for a taxable year beginning after December 31, 2003)''.

(b) LIMITATIONS FOR ACTIVE PARTICIPATION NOT BASED ON SPOUSE'S PARTICIPATION.—Paragraph (1) of section 219(g) (relating to limitation on deduction for active participants in certain pension plans) is amended by striking ''or the individual's spouse''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 302. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

''SEC. 408A. IRA PLUS ACCOUNTS.

''(a) GENERAL RULE.—Except as provided in this section, an IRA Plus account shall be treated for purposes of this title in the same manner as an individual retirement plan.

''(b) IRA PLUS ACCOUNT.—For purposes of this title, the term 'IRA Plus account' means an individual retirement plan (as defined in section 7701(a)(37)) which is designated (in such manner as the Secretary may prescribe) at the time of establishment of the plan as an IRA Plus account. Such designation shall be made in such manner as the Secretary may prescribe.

''(c) TREATMENT OF CONTRIBUTIONS.—

''(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an IRA Plus account.

''(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all IRA Plus accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

''(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year (computed without regard to subsection (g) of such section), over

''(B) the amount so allowed.

''(3) CONTRIBUTIONS PERMITTED AFTER AGE 70½.—Contributions to an IRA Plus account may be made even after the individual for whom the account is maintained has attained age 70½.

''(4) MANDATORY DISTRIBUTION RULES NOT TO APPLY, ETC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), subsections (a)(6) and (b)(3) of section 408 (relating to required distributions) and section 4974 (relating to excise tax on certain accumulations in qualified retirement plans) shall not apply to any IRA Plus account.

''(B) POST-DEATH DISTRIBUTIONS.—Rules similar to the rules of section 401(a)(9) (other than subparagraph (A) thereof) shall apply for purposes of this section.

''(5) ROLLOVER CONTRIBUTIONS.—

''(A) IN GENERAL.—No rollover contribution may be made to an IRA Plus account unless it is a qualified rollover contribution.

''(B) COORDINATION WITH LIMIT.—A qualified rollover contribution shall not be taken into account for purposes of paragraph (2).

''(6) TIME WHEN CONTRIBUTIONS MADE.—For purposes of this section, the rule of section 219(f)(3) shall apply.

''(d) DISTRIBUTION RULES.—For purposes of this title—

''(1) GENERAL RULES.—

''(A) EXCLUSIONS FROM GROSS INCOME.—Any qualified distribution from an IRA Plus account shall not be includible in gross income.

''(B) NONQUALIFIED DISTRIBUTIONS.—In applying section 72 to any distribution from an IRA Plus account which is not a qualified distribution, such distribution shall be treated as made from contributions to the IRA Plus account to the extent that such distribution, when added to all previous distributions from the IRA Plus account, does not exceed the aggregate amount of contributions to the IRA Plus account. For purposes of the preceding sentence, all IRA Plus accounts maintained for the benefit of an individual shall be treated as 1 account.

''(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified distribution' means any payment or distribution—

''(i) made on or after the date on which the individual attains age 59½,

''(ii) made to a beneficiary (or to the estate of the individual) on or after the death of the individual,

''(iii) attributable to the individual's being disabled (within the meaning of section 72(m)(7)), or

''(iv) which is a qualified special purpose distribution.

''(B) CERTAIN DISTRIBUTIONS WITHIN 5 YEARS.—A payment or distribution shall not be treated as a qualified distribution under subparagraph (A) if—

''(i) it is made within the 5-taxable year period beginning with the 1st taxable year for which the individual made a contribution to an IRA Plus account (or such individual's spouse made a contribution to an IRA Plus account) established for such individual, or

''(ii) in the case of a payment or distribution properly allocable (as determined in the manner prescribed by the Secretary) to a qualified rollover contribution (or income allocable thereto), it is made within the 5-taxable year period beginning with the taxable year in which the rollover contribution was made.

Clause (ii) shall not apply to a qualified rollover contribution from an IRA plus account.

''(3) ROLLOVERS.—

''(A) IN GENERAL.—Any distribution which is transferred in a qualified rollover contribution to an IRA Plus account shall not be included in gross income.

''(B) INCOME INCLUSION FOR ROLLOVERS FROM NON-PLUS IRAS.—

''(i) IN GENERAL.—In the case of any distribution to which this subparagraph applies—

''(I) sections 72(t) and 408(d)(3) shall not apply, and

''(II) any amount required to be included in gross income by reason of this paragraph shall be so included ratably over the 4-taxable year period beginning with the taxable year in which the payment or distribution is made.

''(ii) DISTRIBUTIONS TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to a distribution from an individual retirement plan (other than an IRA Plus account) maintained for the benefit of an individual to an IRA Plus account maintained for the benefit of such individual if such distribution would be a qualified rollover contribution were such individual retirement plan an IRA Plus account. Clause (i)(II) shall only apply to distributions before January 1, 1999.

''(iii) CONVERSIONS.—The conversion of an individual retirement plan (other than an IRA Plus account) to an IRA Plus account shall be treated for purposes of this subparagraph as a distribution from such plan to such IRA Plus account.

''(C) ADDITIONAL REPORTING REQUIREMENTS.—The Secretary shall require that trustees of IRA Plus accounts, trustees of individual retirement plans, or both, whichever is appropriate, shall include such additional information in reports required under section 408(i) as is necessary to ensure that amounts required to be included in gross income under subparagraph (B) are so included.

''(4) COORDINATION WITH INDIVIDUAL RETIREMENT ACCOUNTS.—Section 408(d)(2) shall not apply to IRA Plus accounts.

''(5) QUALIFIED SPECIAL PURPOSE DISTRIBUTION.—For purposes of this section, the term 'qualified special purpose distribution' means any distribution to which subparagraph (D) or (F) of section 72(t)(2) applies.

''(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section, the term 'qualified rollover contribution' means a rollover contribution to an IRA Plus account from another such account, or from an individual retirement plan, but only if such rollover contribution meets the requirements of section 408(d)(3). For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than an IRA Plus account) to an IRA Plus account.''.

(b) EXCESS CONTRIBUTIONS.—

(1) Section 4973 is amended by adding at the end the following new subsection:

''(f) EXCESS CONTRIBUTIONS TO IRA PLUS ACCOUNTS.—For purposes of this section, in the case of IRA Plus accounts, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to such accounts exceeds the limitation in section 408A(c)(2).''.

(2) Subsection (b) of section 4973 is amended by adding at the end the following new sentence: ''For purposes of this subsection, an IRA Plus account shall not be treated as an individual retirement plan.''.

(c) SPOUSAL IRA.—Clause (ii) of section 219(c)(1)(B) is amended to read as follows:

''(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by—

''(I) the amount allowed as a deduction under subsection (a) to such spouse for such taxable year, and

''(II) the amount of any contribution on behalf of such spouse to an IRA Plus account under section 408A for such taxable year.''.

(d) REPEAL OF NONDEDUCTIBLE CONTRIBUTIONS.—

(1) Subsection (f) of section 219 is amended by striking paragraph (7).

(2) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(3) Section 408(o) is amended by adding at the end the following new paragraph:

''(5) TERMINATION.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1997.''.

(4) Section 4973(b) is amended by striking the last sentence.

(e) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

''Sec. 408A. IRA Plus accounts.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 303. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES AND WHEN UNEMPLOYED.

(a) FIRST HOMES.—

(1) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans), as amended by section 203, is amended by adding at the end the following new subparagraph:

''(F) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES.—Distributions to an individual from an individual retirement plan which are qualified first-time homebuyer distributions (as defined in paragraph (8)). Distributions shall not be taken into account under the preceding sentence if such distributions are described in subparagraph (A), (C), (D), or (E) or to the extent paragraph (1) does not apply to such distributions by reason of subparagraph (B).''.

(2) DEFINITIONS.—Section 72(t), as amended by section 203, is amended by adding at the end the following new paragraphs:

''(8) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(F)—

''(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 120th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual, the spouse of such individual, or any child, grandchild, or ancestor of such individual or the individual's spouse.

''(B) LIFETIME DOLLAR LIMITATION.—The aggregate amount of payments or distributions received by an individual which may be treated as qualified first-time homebuyer distributions for any taxable year shall not exceed the excess (if any) of—

''(i) $10,000, over

''(ii) the aggregate amounts treated as qualified first-time homebuyer distributions with respect to such individual for all prior taxable years.

''(C) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

''(D) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

''(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

''(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

''(II) subsection (h) or (k) of section 1034 (as in effect on the day before the date of the enactment of this paragraph) did not suspend the running of any period of time specified in section 1034 (as so in effect) with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A).

''(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

''(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

''(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

''(II) on which construction or reconstruction of such a principal residence is commenced.

''(E) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

''(i) section 408(d)(3)(B) shall not be applied to such contribution, and

''(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.''.

(b) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Subparagraph (D) of section 72(t)(2) is amended—

(1) in clause (i), by inserting ''and'' at the end of subclause (I), by striking '', and'' at the end of subclause (II) and inserting a period, and by striking subclause (III), and

(2) by striking ''FOR HEALTH INSURANCE PREMIUMS'' in the heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions in taxable years beginning after December 31, 1997.

SEC. 304. CERTAIN BULLION NOT TREATED AS COLLECTIBLES.

(a) IN GENERAL.—Paragraph (3) of section 408(m) (relating to exception for certain coins) is amended to read as follows:

''(3) EXCEPTION FOR CERTAIN COINS AND BULLION.—For purposes of this subsection, the term 'collectible' shall not include—

''(A) any coin which is—

''(i) a gold coin described in paragraph (7), (8), (9), or (10) of section 5112(a) of title 31, United States Code,

''(ii) a silver coin described in section 5112(e) of title 31, United States Code,

''(iii) a platinum coin described in section 5112(k) of title 31, United States Code, or

''(iv) a coin issued under the laws of any State, or

''(B) any gold, silver, platinum, or palladium bullion of a fineness equal to or exceeding the minimum fineness required for metals which may be delivered in satisfaction of a regulated futures contract subject to regulation by the Commodity Futures Trading Commission under the Commodity Exchange Act,

if such bullion is in the physical possession of a trustee described under subsection (a) of this section.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle B—Capital Gains

SEC. 311. 20-PERCENT MAXIMUM CAPITAL GAINS RATE FOR INDIVIDUALS.

(a) IN GENERAL.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

''(h) MAXIMUM CAPITAL GAINS RATE.—

''(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

''(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

''(i) taxable income reduced by the net capital gain, or

''(ii) the amount of taxable income taxed at a rate below 28 percent, plus

''(B) 24 percent of the lesser of—

''(i) the unrecaptured section 1250 gain, or

''(ii) the amount of taxable income in excess of the sum of the amount on which tax is determined under subparagraph (A) plus the net capital gain determined without regard to unrecaptured section 1250 gain, plus

''(C) 28 percent of the amount of taxable income in excess of the sum of—

''(i) the adjusted net capital gain, plus

''(ii) the sum of the amounts on which tax is determined under subparagraphs (A) and (B), plus

''(D) 10 percent of so much of the taxpayer's adjusted net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of—

''(i) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate of 15 percent or less, over

''(ii) the taxable income reduced by the adjusted net capital gain, plus

''(E) 20 percent of the taxpayer's adjusted net capital gain (or, if less, taxable income) in excess of the amount on which a tax is determined under subparagraph (D).

''(2) NET CAPITAL GAIN TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

''(3) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection, the term 'adjusted net capital gain' means net capital gain determined without regard to—

''(A) collectibles gain, and

''(B) unrecaptured section 1250 gain.

''(4) COLLECTIBLES GAIN.—For purposes of paragraph (3)—

''(A) IN GENERAL.—The term 'collectibles gain' means gain from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 1 year but only to the extent such gain is taken into account in computing gross income.

''(B) PARTNERSHIPS, ETC.—For purposes of subparagraph (A), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

''(5) UNRECAPTURED SECTION 1250 GAIN.—For purposes of this subsection, the term 'unrecaptured section 1250 gain' means the excess (if any) of—

''(A) the amount which would be treated as ordinary income under section 1245 if all section 1250 property disposed of by the taxpayer were section 1245 property, over

''(B) the amount treated as ordinary income under section 1250.

In the case of a taxable year which includes May 7, 1997, unrecaptured section 1250 gain shall be determined by taking into account only the gain properly taken into account for the portion of the taxable year after May 6, 1997.

''(6) PRE-EFFECTIVE DATE GAIN.—

''(A) IN GENERAL.—In the case of a taxable year which includes May 7, 1997, adjusted net capital gain shall be determined without regard to pre-May 7, 1997, gain.

''(B) PRE-MAY 7, 1997, GAIN.—The term 'pre-May 7, 1997, gain' means the amount which would be adjusted net capital gain for the taxable year if adjusted net capital gain were determined by taking into account only the gain or loss properly taken into account for the portion of the taxable year before May 7, 1997.

''(C) SPECIAL RULES FOR PASS-THRU ENTITIES.—In applying subparagraph (A) with respect to any pass-thru entity, the determination of when gains and loss are properly taken into account shall be made at the entity level.

''(D) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (C), the term 'pass-thru entity' means—

''(i) a regulated investment company,

''(ii) a real estate investment trust,

''(iii) an S corporation,
''(iv) a partnership,
''(v) an estate or trust, and
''(vi) a common trust fund.''.

(b) MINIMUM TAX.—

(1) IN GENERAL.—Subsection (b) of section 55 is amended by adding at the end the following new paragraph:

''(3) MAXIMUM RATE OF TAX ON NET CAPITAL GAIN OF NONCORPORATE TAXPAYERS.—The amount determined under the first sentence of paragraph (1)(A)(i) shall not exceed the sum of—

''(A) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been enacted on the taxable excess reduced by the excess of the net capital gain over the sum of the collectibles gain (as defined in section 1(h)(4)) and the pre-effective date gain (as defined in section 1(h)(6)), plus

''(B) 24 percent of the lesser of—

''(i) the unrecaptured section 1250 gain (as defined in section 1(h)(5)), or

''(ii) the amount of taxable excess in excess of the sum of—

''(I) the adjusted net capital gain, plus

''(II) the amount on which a tax is determined under subparagraph (A), plus

''(C) 10 percent of so much of the taxpayer's adjusted net capital gain (or, if less, taxable excess) as does not exceed the amount on which a tax is determined under section 1(h)(1)(B), plus

''(D) 20 percent of the taxpayer's adjusted net capital gain (or, if less, taxable excess) in excess of the amount on which tax is determined under subparagraph (C).''.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 55(b)(1)(A) is amended by striking ''clause (i)'' and inserting ''this subsection''.

(c) OTHER CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 291 is amended by inserting at the end the following new sentence: ''Any capital gain dividend treated as having been paid out of such difference to a shareholder which is not a corporation retains its characters as unrecaptured section 1250 gain for purposes of applying section 1(h) to such shareholder.''.

(2) Paragraph (1) of section 1445(e) is amended by striking ''28 percent'' and inserting ''20 percent''.

(3) The second sentence of section 7518(g)(6)(A), and the second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936, are each amended by striking ''28 percent'' and inserting ''20 percent''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after May 6, 1997.

(2) WITHHOLDING.—The amendment made by subsection (c)(2) shall apply only to amounts paid after the date of the enactment of this Act.

SEC. 312. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) EXCLUSION AVAILABLE TO CORPORATIONS.—

(1) IN GENERAL.—Subsection (a) of section 1202 is amended by striking ''In the case of a taxpayer other than a corporation, gross'' and inserting ''Gross''.

(2) TECHNICAL AMENDMENT.—Subsection (c) of section 1202 is amended by adding at the end the following new paragraph:

''(4) STOCK HELD AMONG MEMBERS OF CONTROLLED GROUP NOT ELIGIBLE.—Stock of a member of a parent-subsidiary controlled group (as defined in subsection (c)(3)) shall not be treated as qualified small business stock while held by another member of such group.''.

(b) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) Subsection (a) of section 57 is amended by striking paragraph (7).

(2) Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking '', (5), and (7)'' and inserting ''and (5)''.

(c) STOCK OF LARGER BUSINESSES ELIGIBLE FOR REDUCED RATES.—Paragraph (1) of section 1202(d) is amended by striking ''$50,000,000'' each place it appears and inserting ''$100,000,000''.

(d) REPEAL OF PER-ISSUER LIMITATION.—Section 1202 is amended by striking subsection (b).

(e) OTHER MODIFICATIONS.—

(1) REPEAL OF WORKING CAPITAL LIMITATION.—Paragraph (6) of section 1202(e) is amended—

(A) by striking ''2 years'' in subparagraph (B) and inserting ''5 years'', and

(B) by striking the last sentence.

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Paragraph (3) of section 1202(c) is amended by adding at the end the following new subparagraph:

''(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section.''.

(f) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1202 is amended by striking ''subsections (f) and (h)'' and inserting ''subsections (e) and (g)''.

(2) Paragraph (2) of section 1202(c) is amended—

(A) by striking ''subsection (e)'' each place it appears and inserting ''subsection (d)'', and

(B) by striking ''subsection (e)(4)'' in subparagraph (B)(ii) and inserting ''subsection (d)(4)''.

(3) Paragraph (1) of section 1202(e) is amended by striking ''subsection (c)(2)'' and inserting ''subsection (b)(2)''.

(4) Paragraph (1) of section 1202(g) is amended to read as follows:

''(1) IN GENERAL.—If any amount included in gross income by reason of holding an interest in a pass-thru entity meets the requirements of paragraph (2), such amount shall be treated as gain from the sale or exchange of any qualified small business stock held for more than 5 years.''.

(5) Section 1202, as amended by the preceding provisions of this section, is amended by redesignating subsections (c) through (k) as subsections (b) through (j), respectively.

(6) So much of paragraph (2) of section 172(d) as precedes subparagraph (A) thereof is amended to read as follows:

''(2) CAPITAL GAINS AND LOSSES.—In the case of any taxpayer—''.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to stock issued after August 10, 1993.

(2) SUBSECTIONS (a) and (c).—The amendments made by subsections (a) and (c) shall apply to stock issued after the date of the enactment of this Act.

SEC. 313. ROLLOVER OF GAIN FROM SALE OF QUALIFIED STOCK.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 is amended by adding at the end the following new section:

''SEC. 1045. ROLLOVER OF GAIN FROM QUALIFIED SMALL BUSINESS STOCK TO ANOTHER QUALIFIED SMALL BUSINESS STOCK.

''(a) NONRECOGNITION OF GAIN.—In the case of any sale of qualified small business stock with respect to which the taxpayer elects the application of this section, eligible gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

''(1) the cost of any qualified small business stock purchased by the taxpayer during the 60-day period beginning on the date of such sale, reduced by

''(2) any portion of such cost previously taken into account under this section.

This section shall not apply to any gain which is treated as ordinary income for purposes of this title.

''(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED SMALL BUSINESS STOCK.—The term 'qualified small business stock' has the meaning given such term by section 1202(b).

''(2) ELIGIBLE GAIN.—The term 'eligible gain' means any gain from the sale or exchange of qualified small business stock held for more than 5 years.

''(3) PURCHASE.—A taxpayer shall be treated as having purchased any property if, but for paragraph (4), the unadjusted basis of such property in the hands of the taxpayer would be its cost (within the meaning of section 1012).

''(4) BASIS ADJUSTMENTS.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any qualified small business stock which is purchased by the taxpayer during the 60-day period described in subsection (a).

''(c) SPECIAL RULES FOR TREATMENT OF REPLACEMENT STOCK.—

''(1) HOLDING PERIOD FOR ACCRUED GAIN.—For purposes of this chapter, gain from the disposition of any replacement qualified small business stock shall be treated as gain from the sale or exchange of qualified small business stock held more than 5 years to the extent that the amount of such gain does not exceed the amount of the reduction in the basis of such stock by reason of subsection (b)(4).

''(2) TACKING OF HOLDING PERIOD FOR PURPOSES OF DEFERRAL.—Solely for purposes of applying this section, if any replacement qualified small business stock is disposed of before the taxpayer has held such stock for more than 5 years, gain from such stock shall be treated eligible gain for purposes of subsection (a).

''(3) REPLACEMENT QUALIFIED SMALL BUSINESS STOCK.—For purposes of this subsection, the term 'replacement qualified small business stock' means any qualified small business stock the basis of which was reduced under subsection (b)(4).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a)(23) is amended—

(A) by striking ''or 1044'' and inserting '', 1044, or 1045'', and

(B) by striking ''or 1044(d)'' and inserting '', 1044(d), or 1045(b)(4)''.

(2) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following new item:

''Sec. 1045. Rollover of gain from qualified small business stock to another qualified small business stock.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to stock issued after August 10, 1993.

(2) STOCK HELD BY A CORPORATION.—In the case of stock held by a corporation, the amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

SEC. 314. EXEMPTION FROM TAX FOR GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Section 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

''SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

''(a) EXCLUSION.—Gross income shall not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating 2 years or more.

''(b) LIMITATIONS.—

''(1) IN GENERAL.—The amount of gain excluded from gross income under subsection (a) with respect to any sale or exchange shall not exceed $250,000.

''(2) $500,000 LIMITATION FOR CERTAIN JOINT RETURNS.—Paragraph (1) shall be applied by substituting '$500,000' for '$250,000' if—

''(A) a husband and wife make a joint return for the taxable year of the sale or exchange of the property,

''(B) either spouse meets the ownership requirements of subsection (a) with respect to such property,

''(C) both spouses meet the use requirements of subsection (a) with respect to such property, and

''(D) neither spouse is ineligible for the benefits of subsection (a) with respect to such property by reason of paragraph (3).

''(3) APPLICATION TO ONLY 1 SALE OR EXCHANGE EVERY 2 YEARS.—

''(A) IN GENERAL.—Subsection (a) shall not apply to any sale or exchange by the taxpayer if, during the 2-year period ending on the date of such sale or exchange, there was any other sale or exchange by the taxpayer to which subsection (a) applied.

''(B) PRE-MAY 7, 1997, SALES NOT TAKEN INTO ACCOUNT.—Subparagraph (A) shall be applied without regard to any sale or exchange before May 7, 1997.

''(c) EXCLUSION FOR TAXPAYERS FAILING TO MEET CERTAIN REQUIREMENTS.—

''(1) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a) shall not apply and subsection (b)(3) shall not apply; but the amount of gain excluded from gross income under subsection (a) with respect to such sale or exchange shall not exceed—

''(A) the amount which bears the same ratio to the amount which would be so excluded if such requirements had been met, as

''(B) the shorter of—

''(i) the aggregate periods, during the 5-year period ending on the date of such sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence, or

''(ii) the period after the date of the most recent prior sale or exchange by the taxpayer to which subsection (a) applied and before the date of such sale or exchange,

bears to 2 years.

''(2) SALES AND EXCHANGES TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any sale or exchange if—

''(A) subsection (a) would not (but for this subsection) apply to such sale or exchange by reason of—

''(i) a failure to meet the ownership and use requirements of subsection (a), or

''(ii) subsection (b)(3), and

''(B) such sale or exchange is by reason of a change in place of employment, health, or, to the extent provided in regulations, unforeseen circumstances.

''(d) SPECIAL RULES.—

''(1) PROPERTY OF DECEASED SPOUSE.—For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, the period such unmarried individual owned such property shall include the period such deceased spouse owned such property before death.

''(2) PROPERTY OWNED BY SPOUSE OR FORMER SPOUSE.—For purposes of this section—

''(A) PROPERTY TRANSFERRED TO INDIVIDUAL FROM SPOUSE OR FORMER SPOUSE.—In the case of an individual holding property transferred to such individual in a transaction described in section 1041(a), the period such individual owns such property shall include the period the transferor owned the property.

''(B) PROPERTY USED BY FORMER SPOUSE PURSUANT TO DIVORCE DECREE, ETC.—Solely for purposes of this section, an individual shall be treated as using property as such individual's principal residence during any period of ownership while such individual's spouse or former spouse is granted use of the property under a divorce or separation instrument (as defined in section 71(b)(2)).

''(3) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—For purposes of this section, if the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then—

''(A) the holding requirements of subsection (a) shall be applied to the holding of such stock, and

''(B) the use requirements of subsection (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

''(4) INVOLUNTARY CONVERSIONS.—

''(A) IN GENERAL.—For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

''(B) APPLICATION OF SECTION 1033.—In applying section 1033 (relating to involuntary conversions), the amount realized from the sale or exchange of property shall be treated as being the amount determined without regard to this section, reduced by the amount of gain not included in gross income pursuant to this section.

''(C) PROPERTY ACQUIRED AFTER INVOLUNTARY CONVERSION.—If the basis of the property sold or exchanged is determined (in whole or in part) under section 1033(b) (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged.

''(5) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after May 6, 1997, in respect of such property.

''(6) DETERMINATION OF USE DURING PERIODS OF OUT-OF-RESIDENCE CARE.—In the case of a taxpayer who—

''(A) becomes physically or mentally incapable of self-care, and

''(B) owns property and uses such property as the taxpayer's principal residence during the 5-year period described in subsection (a) for periods aggregating at least 1 year,

then the taxpayer shall be treated as using such property as the taxpayer's principal residence during any time during such 5-year period in which the taxpayer owns the property and resides in any facility (including a nursing home) licensed by a State or political subdivision to care for an individual in the taxpayer's condition.

''(7) DETERMINATION OF MARITAL STATUS.—In the case of any sale or exchange, for purposes of this section—

''(A) the determination of whether an individual is married shall be made as of the date of the sale or exchange, and

''(B) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

''(8) SALES OF REMAINDER INTERESTS.—For purposes of this section—

''(A) IN GENERAL.—At the election of the taxpayer, this section shall not fail to apply to the sale or exchange of an interest in a principal residence by reason of such interest being a remainder interest in such residence, but this section shall not apply to any other interest in such residence which is sold or exchanged separately.

''(B) EXCEPTION FOR SALES TO RELATED PARTIES.—Subparagraph (A) shall not apply to any sale to, or exchange with, any person who bears a relationship to the taxpayer which is described in section 267(b) or 707(b).

''(e) DENIAL OF EXCLUSION FOR EXPATRIATES.—This section shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) applies to such individual.

''(f) ELECTION TO HAVE SECTION NOT APPLY.—This section shall not apply to any sale or exchange with respect to which the taxpayer elects not to have this section apply.

''(g) RESIDENCES ACQUIRED IN ROLLOVERS UNDER SECTION 1034.—For purposes of this section, in the case of property the acquisition of which by the taxpayer resulted under section 1034 (as in effect on the day before the date of the enactment of this section) in the nonrecognition of any part of the gain realized on the sale or exchange of another residence, in determining the period for which the taxpayer has owned and used such property as the taxpayer's principal residence, there shall be included the aggregate periods for which such other residence (and each prior residence taken into account under section 1223(7) in determining the holding period of such property) had been so owned and used.''.

(b) REPEAL OF NONRECOGNITION OF GAIN ON ROLLOVER OF PRINCIPAL RESIDENCE.—Section 1034 (relating to rollover of gain on sale of principal residence) is hereby repealed.

(c) EXCEPTION FROM REPORTING.—Subsection (e) of section 6045 (relating to return required in the case of real estate transactions) is amended by adding at the end the following new paragraph:

''(5) EXCEPTION FOR SALES OR EXCHANGES OF CERTAIN PRINCIPAL RESIDENCES.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any sale or exchange of a residence for $250,000 or less if the person referred to in paragraph (2) receives written assurance in a form acceptable to the Secretary from the seller that—

''(i) such residence is the principal residence (within the meaning of section 121) of the seller,

''(ii) if the Secretary requires the inclusion on the return under subsection (a) of information as to whether there is federally subsidized mortgage financing assistance with respect to the mortgage on residences, that there is no such assistance with respect to the mortgage on such residence, and

''(iii) the full amount of the gain on such sale or exchange is excludable from gross income under section 121.

If such assurance includes an assurance that the seller is married, the preceding sentence shall be applied by substituting '$500,000' for '$250,000'.

''(B) SELLER.—For purposes of this paragraph, the term 'seller' includes the person relinquishing the residence in an exchange.''.

(d) CONFORMING AMENDMENTS.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking ''section 1034'' and inserting ''section 121'': sections 25(e)(7), 56(e)(1)(A), 56(e)(3)(B)(i), 143(i)(1)(C)(i)(I), 163(h)(4)(A)(i)(I), 280A(d)(4)(A), 464(f)(3)(B)(i), 1033(h)(4), 1274(c)(3)(B), 6334(a)(13), and 7872(f)(11)(A).

(2) Paragraph (4) of section 32(c) is amended by striking ''(as defined in section 1034(h)(3))'' and by adding at the end the following new sentence: ''For purposes of the preceding sentence, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.''.

(3) Subparagraph (A) of 143(m)(6) is amended by inserting ''(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)'' after ''1034(e)''.

(4) Subsection (e) of section 216 is amended by striking ''such exchange qualifies for nonrecognition of gain under section 1034(f)'' and inserting ''such dwelling unit is used as his principal residence (within the meaning of section 121)''.

(5) Section 512(a)(3)(D) is amended by inserting ''(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)'' after ''1034''.

(6) Paragraph (7) of section 1016(a) is amended by inserting ''(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)'' after ''1034'' and by inserting ''(as so in effect)'' after ''1034(e)''.

(7) Paragraph (3) of section 1033(k) is amended to read as follows:

''(3) For exclusion from gross income of gain from involuntary conversion of principal residence, see section 121.''.

(8) Subsection (e) of section 1038 is amended to read as follows:

''(e) PRINCIPAL RESIDENCES.—If—

''(1) subsection (a) applies to a reacquisition of real property with respect to the sale of which gain was not recognized under section 121 (relating to gain on sale of principal residence); and

''(2) within 1 year after the date of the reacquisition of such property by the seller, such property is resold by him,

then, under regulations prescribed by the Secretary, subsections (b), (c), and (d) of this section shall not apply to the reacquisition of such property and, for purposes of applying section 121, the resale of such property shall be treated as a part of the transaction constituting the original sale of such property.''.

(9) Paragraph (7) of section 1223 is amended by inserting ''(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1997)'' after ''1034''.

(10)(A) Subsection (d) of section 1250 is amended by striking paragraph (7) and by redesignating paragraphs (9) and (10) as paragraphs (7) and (8), respectively.

(B) Subsection (e) of section 1250 is amended by striking paragraph (3).

(11) Subsection (c) of section 6012 is amended by striking ''(relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55)'' and inserting ''(relating to gain from sale of principal residence)''.

(12) Paragraph (2) of section 6212(c) is amended by striking subparagraph (C) and by redesignating the succeeding subparagraphs accordingly.

(13) Section 6504 is amended by striking paragraph (4) and by redesignating the succeeding paragraphs accordingly.

(14) The item relating to section 121 in the table of sections for part III of subchapter B of chapter 1 is amended to read as follows:

''Sec. 121. Exclusion of gain from sale of principal residence.''.

(15) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by striking the item relating to section 1034.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales and exchanges after May 6, 1997.

(2) SALES BEFORE DATE OF ENACTMENT.—At the election of the taxpayer, the amendments made by this section shall not apply to any sale or exchange before the date of the enactment of this Act.

(3) BINDING CONTRACTS.—At the election of the taxpayer, the amendments made by this section shall not apply to a sale or exchange after the date of the enactment of this Act, if—

(A) such sale or exchange is pursuant to a contract which was binding on such date, or

(B) without regard to such amendments, gain would not be recognized under section 1034 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) on such sale or exchange by reason of a new residence acquired on or before such date or with respect to the acquisition of which by the taxpayer a binding contract was in effect on such date.

This paragraph shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) of the Internal Revenue Code of 1986 applies to such individual.

TITLE IV—ESTATE, GIFT, AND GENERATION-SKIPPING TAX PROVISIONS

SEC. 401. COST-OF-LIVING ADJUSTMENTS RELATING TO ESTATE AND GIFT TAX PROVISIONS.

(a) INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.—

(1) ESTATE TAX CREDIT.—

(A) IN GENERAL.—Subsection (a) of section 2010 (relating to unified credit against estate tax) is amended by striking ''$192,800'' and inserting ''the applicable credit amount''.

(B) APPLICABLE CREDIT AMOUNT.—Section 2010 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) APPLICABLE CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the applicable exclusion amount determined in accordance with the following table:

In the case of estates of decedents dying, and gifts made, during:	The applicable exclusion amount is:
1998	$ 625,000
1999	$ 640,000
2000	$ 660,000
2001	$ 675,000
2002	$ 725,000
2003	$ 750,000
2004	$ 800,000
2005	$ 900,000
2006 or thereafter	$1,000,000.

''(2) COST-OF-LIVING ADJUSTMENT.—In the case of any decedent dying, and gift made, in a calendar year after 2006, the $1,000,000 amount set forth in paragraph (1) shall be increased by an amount equal to—

''(A) $1,000,000, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.''.

(C) ESTATE TAX RETURNS.—Paragraph (1) of section 6018(a) is amended by striking ''$600,000'' and inserting ''the applicable exclusion amount in effect under section 2010(c) for the calendar year which includes the date of death''.

(D) PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—Paragraph (2) of section 2001(c) is amended by striking ''$21,040,000'' and inserting ''the amount at which the average tax rate under this section is 55 percent''.

(E) ESTATES OF NONRESIDENTS NOT CITIZENS.—Subparagraph (A) of section 2102(c)(3) is amended by striking ''$192,800'' and inserting ''the applicable credit amount in effect under section 2010(c) for the calendar year which includes the date of death''.

(2) UNIFIED GIFT TAX CREDIT.—Paragraph (1) of section 2505(a) is amended by striking ''$192,800'' and inserting ''the applicable credit amount in effect under section 2010(c) for such calendar year''.

(b) ALTERNATE VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.—Subsection (a) of section 2032A is amended by adding at the end the following new paragraph:

''(3) INFLATION ADJUSTMENT.—In the case of estates of decedents dying in a calendar year after 1998, the $750,000 amount contained in paragraph (2) shall be increased by an amount equal to—

''(A) $750,000, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.''.

(c) ANNUAL GIFT TAX EXCLUSION.—Subsection (b) of section 2503 is amended—

(1) by striking the subsection heading and inserting the following:

''(b) EXCLUSIONS FROM GIFTS.—

''(1) IN GENERAL.—'',

(2) by moving the text 2 ems to the right, and

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

''(2) INFLATION ADJUSTMENT.—In the case of gifts made in a calendar year after 1998, the $10,000 amount contained in paragraph (1) shall be increased by an amount equal to—

''(A) $10,000, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the next lowest multiple of $1,000.''.

(d) EXEMPTION FROM GENERATION-SKIPPING TAX.—Section 2631 (relating to GST exemption) is amended by adding at the end the following new subsection:

''(c) INFLATION ADJUSTMENT.—In the case of an individual who dies in any calendar year after 1998, the $1,000,000 amount contained in subsection (a) shall be increased by an amount equal to—

''(1) $1,000,000, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.''.

(e) AMOUNT SUBJECT TO REDUCED RATE WHERE EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX ON CLOSELY HELD BUSINESS.—Subsection (j) of section 6601 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) INFLATION ADJUSTMENT.—In the case of estates of decedents dying in a calendar year after 1998, the $1,000,000 amount contained in paragraph (2)(A) shall be increased by an amount equal to—

''(A) $1,000,000, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 1997.

SEC. 402. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

''SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

''(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

''(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

''(2) $1,000,000.

''(b) ESTATES TO WHICH SECTION APPLIES.—

''(1) IN GENERAL.—This section shall apply to an estate if—

''(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

''(B) the executor elects the application of this section and files the agreement referred to in subsection (h),

''(C) the sum of—

''(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

''(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

''(D) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

''(i) such interests were owned by the decedent or a member of the decedent's family, and

''(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

''(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are the interests which—

''(A) are included in determining the value of the gross estate (without regard to this section), and

''(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

''(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

''(A) the sum of—

''(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

''(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

''(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

''(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

''(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

''(2) increased by the excess of—

''(A) the sum of—

''(i) the amount of gifts determined under subsection (b)(3), plus

''(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

''(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

''(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

''(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

''(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

''(2) the sum of—

''(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus

''(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

''(C) any indebtedness not described in subparagraph (A) or (B), to the extent such indebtedness does not exceed $10,000.

''(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

''(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

''(B) an interest in an entity carrying on a trade or business, if—

''(i) at least—

''(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

''(II) 70 percent of such entity is so owned by members of 2 families, or

''(III) 90 percent of such entity is so owned by members of 3 families, and

''(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

''(2) LIMITATION.—Such term shall not include—

''(A) any interest in a trade or business the principal place of business of which is not located in the United States,

''(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

''(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

''(D) that portion of an interest in a trade or business that is attributable to—

''(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

''(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), which produce, or are held for the production of, income of which is described in section 543(a) or in section 954(c)(1) (determined without regard to subparagraph (A) thereof and by substituting 'trade or business' for 'controlled foreign corporation').

''(3) RULES REGARDING OWNERSHIP.—

''(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

''(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

''(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

''(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

''(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

''(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

''(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

''(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

''(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

''(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

''(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

''(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

''(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

''(2) ADDITIONAL ESTATE TAX.—

''(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

''(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

''(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

''(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

If the event described in paragraph (1) occurs in the following year of material participation:	***The applicable percentage is:***
1 through 6	*100*
7	*80*
8	*60*
9	*40*
10	*20.*

''(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

''(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (i)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

''(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

''(A) which is organized under, and governed by, the laws of the United States or a State, and

''(B) except as otherwise provided in regulations, with respect to which the trust instrument

requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

''(h) AGREEMENT.—The agreement referred to in this subsection is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of subsection (f) with respect to such property.

''(i) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

''(1) QUALIFIED HEIR.—The term 'qualified heir'—

''(A) has the meaning given to such term by section 2032A(e)(1), and

''(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

''(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

''(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

''(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

''(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

''(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

''(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

''(E) Section 2032A(c)(4) (relating to due date).

''(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

''(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

''(H) Paragraphs (1) and (3) of section 2032A(d) (relating to election; agreement).

''(I) Section 2032A(e)(10) (relating to community property).

''(J) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

''(K) Section 2032A(f) (relating to statute of limitations).

''(L) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

''(M) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

''(N) Section 6324B (relating to special lien for additional estate tax).''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

''Sec. 2033A. Family-owned business exclusion.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

SEC. 403. TREATMENT OF LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.

(a) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—Section 2031 (relating to the definition of gross estate) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—

''(1) IN GENERAL.—If the executor makes the election described in paragraph (4), then, except as otherwise provided in this subsection, there shall be excluded from the gross estate the lesser of—

''(A) the applicable percentage of the value of land subject to a qualified conservation easement, reduced by the amount of any deduction under section 2055(f) with respect to such land, or

''(B) the excess (if any) of—

''(i) $1,000,000, over

''(ii) the exclusion allowed with respect to the qualified family-owned business interests of the decedent under section 2033A.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means 40 percent reduced (but not below zero) by 2 percentage points for each percentage point (or fraction thereof) by which the value of the qualified conservation easement is less than 30 percent of the value of the land (determined without regard to the value of such easement and reduced by the value of any retained development right (as defined in paragraph (4)).

''(3) TREATMENT OF CERTAIN INDEBTEDNESS.—

''(A) IN GENERAL.—The exclusion provided in paragraph (1) shall not apply to the extent that the land is debt-financed property.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) DEBT-FINANCED PROPERTY.—The term 'debt-financed property' means any property with respect to which there is an acquisition indebtedness (as defined in clause (ii)) on the date of the decedent's death.

''(ii) ACQUISITION INDEBTEDNESS.—The term 'acquisition indebtedness' means, with respect to debt-financed property, the unpaid amount of—

''(I) the indebtedness incurred by the donor in acquiring such property,

''(II) the indebtedness incurred before the acquisition of such property if such indebtedness would not have been incurred but for such acquisition,

''(III) the indebtedness incurred after the acquisition of such property if such indebtedness would not have been incurred but for such acquisition and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition, and

''(IV) the extension, renewal, or refinancing of an acquisition indebtedness.

''(4) TREATMENT OF RETAINED DEVELOPMENT RIGHT.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to the value of any development right retained by the donor in the conveyance of a qualified conservation easement.

''(B) TERMINATION OF RETAINED DEVELOPMENT RIGHT.—If every person in being who has an interest (whether or not in possession) in the land executes an agreement to extinguish permanently some or all of any development rights (as defined in subparagraph (D)) retained by the donor on or before the date for filing the return of the tax imposed by section 2001, then any tax imposed by section 2001 shall be reduced accordingly. Such agreement shall be filed with the return of the tax imposed by section 2001. The agreement shall be in such form as the Secretary shall prescribe.

''(C) ADDITIONAL TAX.—Any failure to implement the agreement described in subparagraph (B) not later than the earlier of—

''(i) the date which is 2 years after the date of the decedent's death, or

''(ii) the date of the sale of such land subject to the qualified conservation easement,

shall result in the imposition of an additional tax in the amount of the tax which would have been due on the retained development rights subject to such agreement. Such additional tax shall be due and payable on the last day of the 6th month following such date.

''(D) DEVELOPMENT RIGHT DEFINED.—For purposes of this paragraph, the term 'development right' means any right to use the land subject to the qualified conservation easement in which such right is retained for any commercial purpose which is not subordinate to and directly supportive of the use of such land as a farm for farming purposes (within the meaning of section 6420(c)).

''(4) ELECTION.—The election under this subsection shall be made on the return of the tax imposed by section 2001. Such an election, once made, shall be irrevocable.

''(5) CALCULATION OF ESTATE TAX DUE.—An executor making the election described in paragraph (4) shall, for purposes of calculating the amount of tax imposed by section 2001, include the value of any development right (as defined in paragraph (3)) retained by the donor in the conveyance of such qualified conservation easement. The computation of tax on any retained development right prescribed in this paragraph shall be done in such manner and on such forms as the Secretary shall prescribe.

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—The term 'land subject to a qualified conservation easement' means land—

''(i) which is located—

''(I) in or within 25 miles of an area which, on the date of the decedent's death, is a metropolitan area (as defined by the Office of Management and Budget),

''(II) in or within 25 miles of an area which, on the date of the decedent's death, is a national park or wilderness area designated as part of the National Wilderness Preservation System (unless it is determined by the Secretary that land in or within 25 miles of such a park or wilderness area is not under significant development pressure), or

''(III) in or within 10 miles of an area which, on the date of the decedent's death, is an Urban National Forest (as designated by the Forest Service),

''(ii) which was owned by the decedent or a member of the decedent's family at all times during the 3-year period ending on the date of the decedent's death, and

''(iii) with respect to which a qualified conservation easement has been made by the decedent or a member of the decedent's family.

''(B) QUALIFIED CONSERVATION EASEMENT.—The term 'qualified conservation easement' means a qualified conservation contribution (as defined in section 170(h)(1)) of a qualified real property interest (as defined in section 170(h)(2)(C)), except that clause (iv) of section 170(h)(4)(A) shall not apply, and the restriction on the use of such interest described in section 170(h)(2)(C) shall include a prohibition on commercial recreational activity.

''(C) MEMBER OF FAMILY.—The term 'member of the decedent's family' means any member of the family (as defined in section 2032A(e)(2)) of the decedent.

''(7) APPLICATION OF THIS SECTION TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.—This section shall apply to an interest in a partnership, corporation, or trust if at least 30 percent of the entity is owned (directly or indirectly) by the decedent, as determined under the rules described in section 2033A(e)(3).''.

(b) CARRYOVER BASIS.—Section 1014(a) (relating to basis of property acquired from a decedent), as amended by section 502(b), is amended by striking the period at the end of paragraph (4) and inserting '', or'' and by adding at the end the following new paragraph:

''(5) to the extent of the applicability of the exclusion described in section 2031(c), the basis in the hands of the decedent.''.

(c) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—Subsection (c) of section 2032A (relating to alternative valuation method) is amended by adding at the end the following new paragraph:

''(8) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—A qualified conservation contribution (as defined in section 170(h)) by gift or otherwise shall not be deemed a disposition under subsection (c)(1)(A).''.

(d) QUALIFIED CONSERVATION CONTRIBUTION WHERE SURFACE AND MINERAL RIGHTS ARE SEPARATED.—Section 170(h)(5)(B)(ii) (relating to special rule) is amended to read as follows:

''(ii) SPECIAL RULE.—With respect to any contribution of property in which the ownership of the surface estate and mineral interests has been and remains separated, subparagraph (A) shall be treated as met if the probability of surface mining occurring on such property is so remote as to be negligible.''.

(e) EFFECTIVE DATES.—

(1) EXCLUSION.—The amendments made by subsections (a) and (b) shall apply to estates of decedents dying after December 31, 1997.

(2) EASEMENTS.—The amendments made by subsections (c) and (d) shall apply to easements granted after December 31, 1997.

SEC. 404. 20-YEAR INSTALLMENT PAYMENT WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS.

(a) IN GENERAL.—Section 6166(a) (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended by striking ''10'' in paragraph (1) and the heading thereof and inserting ''20''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

SEC. 405. NO INTEREST ON CERTAIN PORTION OF ESTATE TAX EXTENDED UNDER SECTION 6166, REDUCED INTEREST ON REMAINING PORTION, AND NO DEDUCTION FOR SUCH REDUCED INTEREST.

(a) NO INTEREST AND REDUCED INTEREST.—

(1) IN GENERAL.—Paragraphs (1) and (2) of section 6601(j) (relating to 4-percent rate on certain portion of estate tax extended under section 6166), as amended by section 501(e), are amended to read as follows:

''(1) IN GENERAL.—If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, then in lieu of the annual rate provided by subsection (a)—

''(A) no interest shall be paid on the no-interest portion of such amount, and

''(B) interest on so much of such amount as exceeds such no-interest portion shall be paid at a rate equal to 45 percent of the annual rate provided by subsection (a).

For purposes of this subsection, the amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section.

''(2) NO-INTEREST PORTION.—For purposes of this section, the term 'no-interest portion' means the lesser of—

''(A)(i) the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the sum of $1,000,000 and the applicable exclusion amount in effect under section 2010(c), reduced by

''(ii) the applicable credit amount in effect under section 2010(c), or

''(B) the amount of the tax imposed by chapter 11 which is extended as provided in section 6166.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 6601(j), as amended by section 501, is amended—

(i) by striking ''4-percent'' each place it appears in paragraph (3) and inserting ''no-interest'', and

(ii) by striking ''4-PERCENT RATE ON CERTAIN PORTION OF'' in the heading and inserting ''RATE ON''.

(B) Section 6166(b)(7)(A)(iii) is amended to read as follows:

''(iii) for purposes of applying section 6601(j) (relating to rate on estate tax extended under section 6166), the no-interest portion shall be zero.''.

(C) Section 6166(b)(8)(A)(iii) is amended to read as follows:

''(iii) NO-INTEREST PORTION NOT TO APPLY.—For purposes of applying section 6601(j) (relating to rate on estate tax extended under section 6166), the no-interest portion shall be zero.''.

(b) DISALLOWANCE OF INTEREST DEDUCTION.—

(1) ESTATE TAX.—Paragraph (1) of section 2053(c) is amended by adding at the end the following new subparagraph:

''(D) SECTION 6166 INTEREST.—No deduction shall be allowed under this section for any interest payable under section 6601 on any unpaid portion of the tax imposed by section 2001 for the period during which an extension of time for payment of such tax is in effect under section 6166.''.

(2) INCOME TAX.—Subparagraph (E) of section 163(h)(2) is amended by striking ''or 6166''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

SEC. 406. EXTENSION OF TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A TO LINEAL DESCENDANTS.

(a) GENERAL RULE.—Paragraph (7) of section 2032A(c) (relating to special rules for tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN RENTS TREATED AS QUALIFIED USE.—For purposes of this subsection, a surviving spouse or lineal descendant of the decedent shall not be treated as failing to use qualified real property in a qualified use solely because such spouse or descendant rents such property to a member of the family of such spouse or descendant on a net cash basis. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the child of such individual by blood.''.

(b) CONFORMING AMENDMENT.—Section 2032A(b)(5)(A) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to leases entered into after December 31, 1976.

SEC. 407. EXPANSION OF EXCEPTION FROM GENERATION-SKIPPING TRANSFER TAX FOR TRANSFERS TO INDIVIDUALS WITH DECEASED PARENTS.

(a) IN GENERAL.—Section 2651 (relating to generation assignment) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULE FOR PERSONS WITH A DECEASED PARENT.—

''(1) IN GENERAL.—For purposes of determining whether any transfer is a generation-skipping transfer, if—

''(A) an individual is a descendant of a parent of the transferor (or the transferor's spouse or former spouse), and

''(B) such individual's parent who is a lineal descendant of the parent of the transferor (or the transferor's spouse or former spouse) is dead at the time the transfer (from which an interest of such individual is established or derived) is subject to a tax imposed by chapter 11 or 12 upon the transferor (and if there shall be more than 1 such time, then at the earliest such time), such individual shall be treated as if such individual were a member of the generation which is 1 generation below the lower of the transferor's generation or the generation assignment of the youngest living ancestor of such individual who is also a descendant of the parent of the transferor (or the transferor's spouse or former spouse), and the generation assignment of any descendant of such individual shall be adjusted accordingly.

''(2) LIMITED APPLICATION OF SUBSECTION TO COLLATERAL HEIRS.—This subsection shall not apply with respect to a transfer to any individual who is not a lineal descendant of the transferor (or the transferor's spouse or former spouse) if, at the time of the transfer, such transferor has any living lineal descendant.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 2612(c) (defining direct skip) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Section 2612(c)(2) (as so redesignated) is amended by striking ''section 2651(e)(2)'' and inserting ''section 2651(f)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to terminations, distributions, and transfers occurring after December 31, 1997.

TITLE V—EXTENSIONS

SEC. 501. RESEARCH TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 41(h) (relating to termination) is amended—

(1) by striking ''May 31, 1997'' and inserting ''May 31, 1999'', and

(2) by striking in the last sentence ''during the first 11 months of such taxable year.'' and inserting ''during the 35-month period beginning with the first month of such year. The 35 months referred to in the preceding sentence shall be reduced by the number of full months after June 1996 (and before the first month of such first taxable year) during which the taxpayer paid or incurred any amount which is taken into account in determining the credit under this section.''.

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 41(c)(4) is amended to read as follows:

''(B) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.''.

(2) Paragraph (1) of section 45C(b) is amended by striking ''May 31, 1997'' and inserting ''May 31, 1999''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after May 31, 1997.

SEC. 502. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Clause (ii) of section 170(e)(5)(D) (relating to termination) is amended by striking ''May 31, 1997'' and inserting ''May 31, 1999''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after May 31, 1997.

SEC. 503. WORK OPPORTUNITY TAX CREDIT.

(a) EXTENSION.—Subparagraph (B) of section 51(c)(4) (relating to termination) is amended by striking ''September 30, 1997'' and inserting ''May 31, 1999''.

(b) MODIFICATION OF ELIGIBILITY REQUIREMENT BASED ON PERIOD ON WELFARE.—

(1) IN GENERAL.—Subparagraph (A) of section 51(d)(2) (defining qualified IV–A recipient) is amended by striking all that follows ''a IV–A program'' and inserting ''for any 9 months during the 18-month period ending on the hiring date.''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 51(d)(3) is amended to read as follows:

''(A) IN GENERAL.—The term 'qualified veteran' means any veteran who is certified by the designated local agency as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date.''.

(c) QUALIFIED SSI RECIPIENTS TREATED AS MEMBERS OF TARGETED GROUPS.—

(1) IN GENERAL.—Section 51(d)(1) (relating to members of targeted groups) is amended by striking ''or'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting '', or'', and by adding at the end the following new subparagraph:

''(H) a qualified SSI recipient.''.

(2) QUALIFIED SSI RECIPIENTS.—Section 51(d) is amended by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively, and by inserting after paragraph (8) the following new paragraph:

''(9) QUALIFIED SSI RECIPIENT.—The term 'qualified SSI recipient' means any individual who is certified by the designated local agency as receiving supplemental security income benefits under title XVI of the Social Security Act

(including supplemental security income benefits of the type described in section 1616 of such Act or section 212 of Public Law 93–66) for any month ending within the 60-day period ending on the hiring date.''.

(d) PERCENTAGE OF WAGES ALLOWED AS CREDIT.—

(1) IN GENERAL.—Subsection (a) of section 51 (relating to determination of amount) is amended by striking ''35 percent'' and inserting ''40 percent''.

(2) APPLICATION OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 400 HOURS OF SERVICES.—Paragraph (3) of section 51(i) is amended to read as follows:

''(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIODS.—

''(A) REDUCTION OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 400 HOURS OF SERVICES.—In the case of an individual who has completed at least 120 hours, but less than 400 hours, of services performed for the employer, subsection (a) shall be applied by substituting '25 percent' for '40 percent'.

''(B) DENIAL OF CREDIT FOR INDIVIDUALS PERFORMING FEWER THAN 120 HOURS OF SERVICES.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual has completed at least 120 hours of services performed for the employer.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after September 30, 1997.

SEC. 504. ORPHAN DRUG TAX CREDIT.

(a) IN GENERAL.—Section 45C (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking subsection (e).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid or incurred after May 31, 1997.

TITLE VI—INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA

SEC. 601. TAX INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

''Subchapter W—Incentives for the Revitalization of the District of Columbia

''SEC. 1400. FIRST-TIME HOMEBUYER CREDIT FOR DISTRICT OF COLUMBIA.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual who is a first-time homebuyer of a principal residence in the District of Columbia during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to so much of the purchase price of the residence as does not exceed $5,000.

''(b) FIRST-TIME HOMEBUYER.—For purposes of this section—

''(1) IN GENERAL.—The term 'first-time homebuyer' has the same meaning as when used in section 72(t)(8)(D)(i), except that 'principal residence in the District of Columbia during the 1-year period' shall be substituted for 'principal residence during the 2-year period' in subclause (I) thereof.

''(2) ONE-TIME ONLY.—If an individual is treated as a first-time homebuyer with respect to any principal residence, such individual may not be treated as a first-time homebuyer with respect to any other principal residence.

''(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

''(4) DATE OF ACQUISITION.—The term 'date of acquisition' has the same meaning as when used in section 72t(8)(D)(iii).

''(c) CARRYOVER OF CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under subpart A of part IV of subchapter A (other than this section and section 25), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) ALLOCATION OF DOLLAR LIMITATION.—

''(A) MARRIED INDIVIDUALS FILING JOINTLY.—In the case of a husband and wife who file a joint return, the $5,000 limitation under subsection (a) shall apply to the joint return.

''(B) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return, subsection (a) shall be applied by substituting '$2,500' for '$5,000'.

''(C) OTHER TAXPAYERS.—If 2 or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $5,000.

''(2) PURCHASE.—The term 'purchase' means any acquisition, but only if—

''(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267 (b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants), and

''(B) the basis of the property in the hands of the person acquiring it is not determined—

''(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

''(ii) under section 1014(a) (relating to property acquired from a decedent).

''(3) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date of acquisition.

''(d) REPORTING.—If the Secretary requires information reporting under section 6045 to verify the eligibility of taxpayers for the credit allowable by this section, the exception provided by section 6045(e)(5) shall not apply.

''(e) CREDIT TREATED AS NONREFUNDABLE PERSONAL CREDIT.—For purposes of this title, the credit allowed by this section shall be treated as a credit allowable under subpart A of part IV of subchapter A of this chapter.

''SEC. 1400A. CREDIT FOR EQUITY INVESTMENTS IN AND LOANS TO DISTRICT OF COLUMBIA BUSINESSES.

''(a) GENERAL RULE.—For purposes of section 38, the DC investment credit determined under this section for any taxable year is—

''(1) the qualified lender credit for such year, and

''(2) the qualified equity investment credit for such year.

''(b) QUALIFIED LENDER CREDIT.—For purposes of this section—

''(1) IN GENERAL.—The qualified lender credit for any taxable year is the amount of credit specified for such year by the Economic Development Corporation with respect to qualified District loans made by the taxpayer.

''(2) LIMITATION.—In no event may the qualified lender credit with respect to any loan exceed 25 percent of the cost of the property purchased with the proceeds of the loan.

''(3) QUALIFIED DISTRICT LOAN.—For purposes of paragraph (1), the term 'qualified district loan' means any loan for the purchase (as defined in section 179(d)(2)) of property to which section 168 applies (or would apply but for section 179) (or land which is functionally related and subordinate to such property) and substantially all of the use of which is in the District of Columbia and is in the active conduct of a trade or business in the District of Columbia. A rule similar to the rule of section 1397C(a)(2) shall apply for purposes of the preceding sentence.

''(c) QUALIFIED EQUITY INVESTMENT CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the qualified equity investment credit determined under this section for any taxable year is an amount equal to the percentage specified by the Economic Development Corporation (but not greater than 25 percent) of the aggregate amount paid in cash by the taxpayer during the taxable year for the purchase of District business investments.

''(2) DISTRICT BUSINESS INVESTMENT.—For purposes of this subsection, the term 'District business investment' means—

''(A) any District business stock, and

''(B) any District partnership interest.

''(3) DISTRICT BUSINESS STOCK.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'District business stock' means any stock in a domestic corporation if—

''(i) such stock is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash, and

''(ii) as of the time such stock was issued, such corporation was engaged in a trade or business in the District of Columbia (or, in the case of a new corporation, such corporation was being organized for purposes of engaging in such a trade or business).

''(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

''(4) QUALIFIED DISTRICT PARTNERSHIP INTEREST.—For purposes of this subsection, the term 'qualified District partnership interest' means any interest in a partnership if—

''(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash, and

''(B) as of the time such interest was acquired, such partnership was engaging in a trade or business in the District of Columbia (or, in the case of a new partnership, such partnership was being organized for purposes of engaging in such a trade or business).

A rule similar to the rule of paragraph (3)(B) shall apply for purposes of this paragraph.

''(5) RECAPTURE OF CREDIT UPON CERTAIN DISPOSITIONS OF DISTRICT BUSINESS INVESTMENTS.—

''(A) IN GENERAL.—If a taxpayer disposes of any District business investment (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such investment) before the end of the 5-year period beginning on the date such investment was acquired by the taxpayer, the taxpayer's tax imposed by this chapter for the taxable year in which such distribution occurs shall be increased by the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero any credit determined under this section with respect to such investment.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any gift, transfer, or transaction described in paragraph (1), (2), or (3) of section 1245(b).

''(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

''(i) determining the amount of any credit allowable under this chapter, and

''(ii) determining the amount of the tax imposed by section 55.

''(6) BASIS REDUCTION.—For purposes of this title, the basis of any District business investment shall be reduced by the amount of the credit determined under this section with respect to such investment.

''(d) LIMITATION ON AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the DC investment credit determined under this section with respect to any taxpayer for any taxable year shall not exceed the credit amount allocated to such taxpayer for such taxable year by the Economic Development Corporation.

''(2) OVERALL LIMITATION.—The aggregate credit amount which may be allocated by the Economic Development Corporation under this section shall not exceed $60,000,000.

''(3) CRITERIA FOR ALLOCATING CREDIT AMOUNTS.—The allocation of credit amounts under this section shall be made in accordance with criteria established by the Economic Development Corporation. In establishing such criteria, such Corporation shall take into account—

''(A) the degree to which the business receiving the loan or investment will provide job opportunities for low and moderate income residents of a targeted area, and

''(B) whether such business is within a targeted area.

''(4) TARGETED AREA.—For purposes of paragraph (3), the term 'targeted area' means—

''(A) any census tract located in the District of Columbia which is part of an enterprise community designated under subchapter U before the date of the enactment of this subchapter, and

''(B) any other census tract which is located in the District of Columbia and which has a poverty rate of not less than 35 percent.

''(e) ECONOMIC DEVELOPMENT CORPORATION.—For purposes of this section, the term 'Economic Development Corporation' has the meaning given such term by section 1400A(b).

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section.

''(g) APPLICATION OF SECTION.—This section shall apply to any credit amount allocated for taxable years beginning after December 31, 1997, and before January 1, 2003.

''SEC. 1400B. ZERO PERCENT CAPITAL GAINS RATE.

''(a) EXCLUSION.—

''(1) IN GENERAL.—Gross income shall not include qualified capital gain from the sale or exchange of any DC asset held for more than 5 years.

''(2) SPECIAL 10 PERCENT RATE FOR DC ASSETS ACQUIRED IN 1998.—

''(A) IN GENERAL.—In the case of any DC asset acquired during calendar year 1998—

''(i) paragraph (1) shall not apply to any qualified capital gain from the sale or exchange of such asset, and

''(ii) the qualified capital gain described in clause (i) shall be treated as adjusted net capital gain described in section 1(h)(1)(D) for the taxable year of the sale or exchange (and the amount under section 1(h)(1)(D)(i) for such taxable year shall be increased by the amount of such gain).

''(B) SPECIAL RULE.—For purposes of subparagraph (A), any DC asset the basis of which is determined in whole or in part by reference to the basis of an asset to which subparagraph (A) applies shall be treated as a DC asset acquired during calendar year 1998.

''(b) DC ASSET.—For purposes of this section—

''(1) IN GENERAL.—The term 'DC asset' means—

''(A) any DC business stock,

''(B) any DC partnership interest, and

''(C) any DC business property.

''(2) DC BUSINESS STOCK.—

''(A) IN GENERAL.—The term 'DC business stock' means any stock in a domestic corporation which is originally issued after December 31, 1997, if—

''(i) such stock is acquired by the taxpayer, before January 1, 2003, at its original issue (directly or through an underwriter) solely in exchange for cash,

''(ii) as of the time such stock was issued, such corporation was a DC business (or, in the case of a new corporation, such corporation was being organized for purposes of being a DC business), and

''(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as a DC business.

''(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

''(3) DC PARTNERSHIP INTEREST.—The term 'DC partnership interest' means any capital or profits interest in a domestic partnership which is originally issued after December 31, 1997, if—

''(A) such interest is acquired by the taxpayer, before January 1, 2003, from the partnership solely in exchange for cash,

''(B) as of the time such interest was acquired, such partnership was a DC business (or, in the case of a new partnership, such partnership was being organized for purposes of being a DC business), and

''(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as a DC business.

A rule similar to the rule of paragraph (2)(B) shall apply for purposes of this paragraph.

''(4) DC BUSINESS PROPERTY.—

''(A) IN GENERAL.—The term 'DC business property' means tangible property if—

''(i) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after December 31, 1997, and before January 1, 2003,

''(ii) the original use of such property in the District of Columbia commences with the taxpayer, and

''(iii) during substantially all of the taxpayer's holding period for such property, substantially all of the use of such property was in a DC business of the taxpayer.

''(B) SPECIAL RULE FOR BUILDINGS WHICH ARE SUBSTANTIALLY IMPROVED.—

''(i) IN GENERAL.—The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as met with respect to—

''(I) property which is substantially improved by the taxpayer before January 1, 2003, and

''(II) any land on which such property is located.

''(ii) SUBSTANTIAL IMPROVEMENT.—For purposes of clause (i), property shall be treated as substantially improved by the taxpayer only if, during any 24-month period beginning after December 31, 1997, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of—

''(I) an amount equal to the adjusted basis of such property at the beginning of such 24-month period in the hands of the taxpayer, or

''(II) $5,000.

''(6) TREATMENT OF SUBSEQUENT PURCHASERS, ETC.—The term 'DC asset' includes any property which would be a DC asset but for paragraph (2)(A)(i), (3)(A), or (4)(A)(ii) in the hands of the taxpayer if such property was a DC asset in the hands of a prior holder.

''(7) 5-YEAR SAFE HARBOR.—If any property ceases to be a DC asset by reason of paragraph (2)(A)(iii), (3)(C), or (4)(A)(iii) after the 5-year period beginning on the date the taxpayer acquired such property, such property shall continue to be treated as meeting the requirements of such paragraph; except that the amount of gain to which subsection (a) applies on any sale or exchange of such property shall not exceed the amount which would be qualified capital gain had such property been sold on the date of such cessation.

''(c) DC BUSINESS.—For purposes of this section, the term 'DC business' means any entity which is an enterprise zone business (as defined in section 1397B), determined—

''(1) by treating the District of Columbia as an empowerment zone and as if no other area is an empowerment zone or enterprise community, and

''(2) without regard to subsections (b)(6) and (c)(5) of section 1397B.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED CAPITAL GAIN.—Except as otherwise provided in this subsection, the term 'qualified capital gain' means any gain recognized on the sale or exchange of—

''(A) a capital asset, or

''(B) property used in the trade or business (as defined in section 1231(b)).

''(2) GAIN BEFORE 1998 NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain attributable to periods before January 1, 1998.

''(3) CERTAIN GAIN ON REAL PROPERTY NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain which would be treated as ordinary income under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

''(4) INTANGIBLES AND LAND NOT INTEGRAL PART OF DC BUSINESS.—The term 'qualified capital gain' shall not include any gain which is attributable to real property, or an intangible asset, which is not an integral part of a DC business.

''(5) RELATED PARTY TRANSACTIONS.—The term 'qualified capital gain' shall not include any gain attributable, directly or indirectly, in whole or in part, to a transaction with a related person. For purposes of this paragraph, persons are related to each other if such persons are described in section 267(b) or 707(b)(1).

''(e) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of subsections (g), (h), (i)(2), and (j) of section 1202 shall apply for purposes of this section.

''(f) SALES AND EXCHANGES OF INTERESTS IN PARTNERSHIPS AND S CORPORATIONS WHICH ARE DC BUSINESSES.—In the case of the sale or exchange of an interest in a partnership, or of stock in an S corporation, which was a DC business during substantially all of the period the taxpayer held such interest or stock, the amount of qualified capital gain shall be determined without regard to—

''(1) any gain which is attributable to real property, or an intangible asset, which is not an integral part of a DC business, and

''(2) any gain attributable to periods before January 1, 1998.

''SEC. 1400C. TRUST FUND FOR DC SCHOOLS.

''(a) CREATION OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for DC Schools', consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

''(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

''(1) IN GENERAL.—There are hereby appropriated to the Trust Fund for DC Schools amounts equivalent to the applicable percentage of revenues received in the Treasury from income taxes imposed by this chapter for any taxable year beginning after December 31, 1997, and before January 1, 2008, on individual taxpayers who are residents of the District of Columbia as of the last day of such taxable year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage which the Secretary determines necessary to result in $5,000,000 being appropriated to the Trust Fund under paragraph (1) for each of the calendar years 1998 through 2007.

''(3) TRANSFER OF AMOUNTS.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund for DC Schools on the basis of estimates made by the Secretary of the amounts referred to in such paragraph. 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 Trust Fund for DC Schools are hereby appropriated, and

shall be available without fiscal year limitation, for payment by the Secretary of debt service on qualified DC school bonds.

''(2) QUALIFIED DC SCHOOL BONDS.—The term 'qualified DC school bonds' means bonds which—

''(A) are issued after March 31, 1998, by the District of Columbia to finance the construction, rehabilitation, and repair of schools under the jurisdiction of the government of the District of Columbia, and

''(B) are certified by the District of Columbia Control Board as meeting the requirements of subparagraph (A) after giving 60 days notice of any proposed certification to the Subcommittees on the District of Columbia of the Committees on Appropriations of the House of Representatives and the Senate.

''(d) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund for DC Schools and to report to the Congress each year on the financial condition and the results of the operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

''(e) INVESTMENT.—

''(1) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund for DC Schools as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

''(A) on original issue at the issue price, or

''(B) by purchase of outstanding obligations at the market price.

''(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund for DC Schools may be sold by the Secretary at the market price.

''(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund for DC Schools shall be credited to and form a part of the Trust Fund for DC Schools.''.

(b) CREDITS MADE PART OF GENERAL BUSINESS CREDIT.—

(1) Subsection (b) of section 38 is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) the DC investment credit determined under section 1400A(a).''.

(2) Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

''(8) NO CARRYBACK OF DC CREDITS BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 1400A, or to the credits under subchapter U by reason of section 1400, may be carried back to a taxable year ending before the date of the enactment of sections 1400A and 1400.''.

(3) Subsection (c) of section 196 is amended by striking ''and'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting '', and'', and by adding at the end the following new paragraph:

''(8) the DC investment credit determined under section 1400A(a).''.

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

''Subchapter W. Incentives for the Revitalization of the District of Columbia.''.

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

TITLE VII—MISCELLANEOUS PROVISIONS

Subtitle A—Provisions Relating to Excise Taxes

SEC. 701. REPEAL OF TAX ON DIESEL FUEL USED IN RECREATIONAL BOATS.

(a) IN GENERAL.—Subparagraph (B) of section 6421(e)(2) (defining off-highway business use) is amended by striking clauses (iii) and (iv).

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 4041(a)(1) is amended—

(A) by striking '', a diesel-powered train, or a diesel-powered boat'' each place it appears and inserting ''or a diesel-powered train'', and

(B) by striking ''vehicle, train, or boat'' and inserting ''vehicle or train''.

(2) Paragraph (1) of section 4041(a) is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1998.

SEC. 702. INTERCITY PASSENGER RAIL FUND.

(a) ESTABLISHMENT OF FUND.—The Internal Revenue Code of 1986 is amended by adding at the end the following new subtitle:

''Subtitle L—Intercity Passenger Rail Fund

''Sec. 9901. Intercity passenger rail fund.

''SEC. 9901. INTERCITY PASSENGER RAIL FUND.

''(a) CREATION OF FUND.—There is established in the Treasury of the United States a fund to be known as the 'Intercity Passenger Rail Fund', consisting of such amounts as may be appropriated to the Fund as provided in this section.

''(b) TRANSFER TO INTERCITY PASSENGER RAIL FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

''(1) IN GENERAL.—There are hereby appropriated to the Intercity Passenger Rail Fund amounts equivalent to the net revenues received in the Treasury from the applicable portion of the taxes imposed by sections 4041, 4042, 4081, and 4091 after September 30, 1997, and before April 16, 2001.

''(2) APPLICABLE PORTION.—For purposes of paragraph (1), the term 'applicable portion' means the lesser of—

''(A) 0.5 cent multiplied by the number of gallons on which the taxes described in paragraph (1) are imposed, or

''(B) the portion of such taxes not otherwise appropriated to a trust fund under subchapter A of chapter 98.

''(3) NET REVENUES.—For purposes of paragraph (1), the term 'net revenues' means the amount estimated by the Secretary based on the excess of—

''(A) the applicable portion of the taxes received in the Treasury under sections 4041, 4042, 4081, and 4091, over

''(B) the decrease in the tax imposed by chapter 1 resulting from the applicable portion of the taxes imposed by sections 4041, 4042, 4081, and 4091.

''(4) TRANSFER OF AMOUNTS.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Intercity Passenger Rail Fund on the basis of estimates made by the Secretary of the amounts referred to in such paragraph. 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.—In addition to any amounts appropriated from the general fund of the Treasury of the United States for fiscal years 1998 through 2001 to enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation, amounts in the Intercity Passenger Rail Fund shall be available, as provided by appropriation Acts, to finance qualified expenses of—

''(A) the National Railroad Passenger Corporation, and

''(B) each non-Amtrak State, to the extent determined under paragraph (3).

The amount available for any fiscal year under the preceding sentence shall be the amount dedicated to such Fund for such fiscal year (and no other amount) and shall remain available until expended.

''(2) MAXIMUM AMOUNT OF FUNDS TO NON-AMTRAK STATES.—Each non-Amtrak State shall receive under this subsection an amount equal to the lesser of—

''(A) the State's qualified expenses for the fiscal year, or

''(B) the product of—

''(i) 1/12 of 1 percent of the aggregate amounts appropriated from the Intercity Passenger Rail Fund for such fiscal year under paragraph (1), and

''(ii) the number of months such State is a non-Amtrak State in such fiscal year.

If the amount determined under subparagraph (B) exceeds the amount under subparagraph (A) for any fiscal year, the amount under subparagraph (B) for the following fiscal year shall be increased by the amount of such excess.

''(3) TRANSFERS FROM FUND FOR CERTAIN REPAYMENTS AND CREDITS.—

''(A) IN GENERAL.—The Secretary shall pay from time to time from the Intercity Passenger Rail Fund into the general fund of the Treasury amounts equivalent to—

''(i) the amounts paid before October 1, 2001, under—

''(I) section 6420 (relating to amounts paid in respect of gasoline used on farms),

''(II) section 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems), and

''(III) section 6427 (relating to fuels not used for taxable purposes),

on the basis of claims filed for periods ending before April 16, 2001, and

''(ii) the credits allowed under section 34 (relating to credit for certain uses of gasoline and special fuels) with respect to gasoline and special fuels used before April 16, 2001.

The amounts payable from the Intercity Passenger Rail Fund under this subparagraph shall be determined by taking into account only amounts transferred to such Fund.

''(B) TRANSFERS BASED ON ESTIMATES.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the amounts required to be transferred.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED EXPENSES.—The term 'qualified expenses' means expenses incurred after September 30, 1997, and before April 16, 2001—

''(A) for—

''(i) in the case of the National Railroad Passenger Corporation—

''(I) the acquisition of equipment, rolling stock, and other capital improvements, the upgrading of maintenance facilities, and the maintenance of existing equipment, in intercity passenger rail service, and

''(II) the payment of interest and principal on obligations incurred for such acquisition, upgrading, and maintenance, and

''(ii) in the case of a non-Amtrak State—

''(I) the acquisition of equipment, rolling stock, and other capital improvements, the upgrading of maintenance facilities, and the maintenance of existing equipment, in intercity passenger rail or bus service,

''(II) the purchase of intercity passenger rail services from the National Railroad Passenger Corporation,

''(III) capital expenditures related to rail operations for Class II or Class III rail carriers in the State,

''(IV) any project that is eligible to receive funding under section 5309, 5310, or 5311 of title 49, United States Code,

''(V) any project that is eligible to receive funding under section 130 of title 23, United States Code,

''(VI) the upgrading and maintenance of intercity primary and rural air service facilities, and the purchase of intercity air service between primary and rural airports and regional hubs, and

''(VII) the payment of interest and principal on obligations incurred for such acquisition, upgrading, maintenance, and purchase, and

''(B) certified by the Secretary of Transportation as meeting the requirements of subparagraph (A).

''(2) NON-AMTRAK STATE.—The term 'non-Amtrak State' means any State which does not receive intercity passenger rail service from the National Railroad Passenger Corporation.

''(e) TAX TREATMENT OF FUND EXPENDITURES.—With respect to any payment of qualified expenses described in subsection (d)(1)(A)(i) from the Intercity Passenger Rail Fund during any taxable year to a taxpayer—

''(1) such payment shall not be included in the gross income of the taxpayer for such taxable year,

''(2) no deduction shall be allowed to the taxpayer with respect to any amount paid or incurred which is attributable to such payment, and

''(3) the basis of any property shall be reduced by the portion of the cost of such property which is attributable to such payment.

''(f) REPORT.—It shall be the duty of the Secretary to hold the Intercity Passenger Rail Fund and to report to the Congress each year on the financial condition and the results of the operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

''(g) INVESTMENT.—

''(1) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Intercity Passenger Rail Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

''(A) on original issue at the issue price, or

''(B) by purchase of outstanding obligations at the market price.

''(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Intercity Passenger Rail Fund may be sold by the Secretary at the market price.

''(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Intercity Passenger Rail Fund shall be credited to the general fund of the Treasury of the United States.

''(h) TERMINATION.—The Secretary shall determine and retain, not later than October 1, 2001, the amount in the Intercity Passenger Rail Fund necessary to pay any outstanding qualified expenses, and shall transfer any amount not so retained to the general fund of the Treasury.''.

(b) CONFORMING AMENDMENT.—The table of subtitles for such Code is amended by adding at the end the following new item:

''SUBTITLE L. Intercity Passenger Rail Fund.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxes imposed after September 30, 1997.

(d) BUDGETARY TREATMENT OF AMOUNTS DEPOSITED INTO INTERCITY PASSENGER RAIL FUND.—Pursuant to section 207 of such H. Con. Res. 84, of the total revenues raised by this Act, amounts equal to the amounts deposited into the Intercity Passenger Rail Fund for each fiscal year are hereby dedicated to finance such Fund.

SEC. 703. MODIFICATION OF TAX TREATMENT OF HARD CIDER.

(a) HARD CIDER CONTAINING NOT MORE THAN 7 PERCENT ALCOHOL TAXED AS WINE.—Subsection (b) of section 5041 (relating to imposition and rate of tax) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ''; and'', and by adding at the end the following new paragraph:

''(6) On hard cider derived primarily from apples or apple concentrate and water, containing no other fruit product, and containing at least one-half of 1 percent and not more than 7 percent of alcohol by volume, 22.6 cents per wine gallon.''.

(b) EXCLUSION FROM SMALL PRODUCER CREDIT.—Paragraph (1) of section 5041(c) (relating to credit for small domestic producers) is amended by striking ''subsection (b)(4)'' and inserting ''paragraphs (4) and (6) of subsection (b)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

SEC. 704. GENERAL REVENUE PORTION OF HIGHWAY MOTOR FUELS TAXES DEPOSITED INTO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Paragraph (4) of section 9503(b) is amended by striking ''and'' at the end of subparagraph (A), and by striking subparagraph (B) and inserting the following new subparagraphs:

''(B) there shall not be taken into account the taxes imposed by sections 4041 and 4081 to the extent attributable to—

''(i) the Leaking Underground Storage Tank Trust Fund financing rate, or

''(ii) fuel used in a train,

''(C) in the case of fuels used as described in paragraph (4)(D), (5)(B), or (6)(D) of subsection (c), there shall not be taken into account—

''(i) in the case of gasoline and special motor fuels, so much of the rate of tax as exceeds 11.5 cents per gallon, and

''(ii) in the case of diesel fuel, so much of the rate of tax as exceeds 17.5 cents per gallon, and

''(D) there shall not be taken into account so much of the rate of the taxes received in the Treasury after June 30, 2000, as exceeds the excess of 4.3 cents per gallon over the portion (if any) of such rate as is taken into account in determining the amount appropriated to the Intercity Passenger Rail Fund under section 9901.''.

(b) LIMITATION ON EXPENDITURES.—Subsection (c) of section 9503 is amended by adding at the end the following new paragraph:

''(7) LIMITATION ON EXPENDITURES.—Notwithstanding any other provision of law, in calculating amounts under section 157(a) of title 23, United States Code, and sections 1013(c), 1015(a), and 1015(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1914), deposits in the Highway Trust Fund resulting from the amendments made by the Revenue Reconciliation Act of 1997 shall not be taken into account.''.

(c) TECHNICAL AMENDMENTS.—

(1) Section 9503 is amended by striking subsection (f).

(2) Paragraphs (4)(D), (5)(B), and (6)(D) of section 9503(c) are each amended by striking ''attributable to the Highway Trust Fund financing rate'' and inserting ''attributable to taxes taken into account in determining transfers under subparagraph (C) of subsection (b)(4)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received in the Treasury after September 30, 1997.

SEC. 705. RATE OF TAX ON CERTAIN SPECIAL FUELS DETERMINED ON BASIS OF BTU EQUIVALENCY WITH GASOLINE.

(a) SPECIAL MOTOR FUELS.—Paragraph (2) of section 4041(a) (relating to special motor fuels) is amended to read as follows:

''(2) SPECIAL MOTOR FUELS.—

''(A) IN GENERAL.—There is hereby imposed a tax on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081)—

''(i) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

''(ii) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under clause (i).

''(B) RATE OF TAX.—The rate of the tax imposed by this paragraph shall be—

''(i) except as otherwise provided in this subparagraph, the rate of tax specified in section 4081(a)(2)(A)(i) which is in effect at the time of such sale or use,

''(ii) 13.6 cents per gallon in the case of liquefied petroleum gas, and

''(iii) 11.9 cents per gallon in the case of liquefied natural gas.

In the case of any sale or use after September 30, 1999, clause (ii) shall be applied by substituting '3.2 cents' for '13.6 cents', and clause (iii) shall be applied by substituting '2.8 cents' for '11.9 cents'.''.

(b) METHANOL FUEL PRODUCED FROM NATURAL GAS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(m)(1) is amended by striking clause (i) and inserting the following new clause:

''(i) after September 30, 1997, and before October 1, 1999—

''(I) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

''(II) in any other case, 11.3 cents per gallon, and''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 706. STUDY OF FEASIBILITY OF MOVING COLLECTION POINT FOR DISTILLED SPIRITS EXCISE TAX.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of options for changing the event on which the tax imposed by section 5001 of the Internal Revenue Code of 1986 is determined. One such option which shall be studied is determining such tax on removal from registered wholesale warehouses. In studying each such option, such Secretary shall focus on administrative issues including—

(1) tax compliance,

(2) the number of taxpayers required to pay the tax,

(3) the types of financial responsibility requirements that might be required, and

(4) special requirements regarding segregation of nontax-paid distilled spirits from other products.

Such study shall review the effects of each such option on the Department of the Treasury (including staffing and other demands on budgetary resources) and the change in the period between the time such tax is currently paid and the time such tax would be paid under each such option.

(b) REPORT.—The report of such study shall be submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than January 31, 1998.

SEC. 707. EXTENSION AND MODIFICATION OF SUBSIDIES FOR ALCOHOL FUELS.

(a) EXTENSIONS.—

(1) ALCOHOL FUELS CREDIT.—Subsection (e) of section 40 is amended—

(A) by striking ''December 31, 2000'' and inserting ''December 31, 2007'', and

(B) by striking ''January 1, 2001'' and inserting ''January 1, 2007''.

(2) EXCISE TAXES.—

(A) Section 4041(b)(2)(C) is amended by striking ''October 1, 2000'' and inserting ''October 1, 2007''.

(B) Sections 4041(k)(3), 4081(c)(8), 4091(c)(5), and 6427(f)(4) are each amended by striking ''September 30, 2000'' and inserting ''September 30, 2007''.

(b) MODIFICATION.—

(1) IN GENERAL.—Subsection (h) of section 40 is amended to read as follows:

''(h) REDUCED CREDIT FOR ETHANOL BLENDERS.—

''(1) IN GENERAL.—In the case of any alcohol mixture credit or alcohol credit with respect to any alcohol which is ethanol—

''(A) subsections (b)(1)(A) and (b)(2)(A) shall be applied by substituting 'the blender amount' for '60 cents';

''(B) subsection (b)(3) shall be applied by substituting 'the low-proof blender amount' for '45 cents' and 'the blender amount' for '60 cents'; and

''(C) subparagraphs (A) and (B) of subsection (d)(3) shall be applied by substituting 'the blender amount' for '60 cents' and 'the low-proof blender amount' for '45 cents'.

''(2) AMOUNTS.—For purposes of paragraph (1), the blender amount and the low-proof blender amount shall be determined in accordance with the following table:

	53 cents	39.26 cents
	52 cents	38.52 cents
2005 or thereafter	51 cents	37.78 cents.''.

(2) Subparagraph (A) of section 4041(b)(2) is amended by striking ''5.4 cents'' and inserting ''the applicable blender rate'' and by adding at the end the following flush sentence:

''For purposes of clause (i), the applicable blender rate is 1/10 of the blender amount applicable under section 40(h)(2) for the calendar year in which the sale or use occurs.''.

(3) Paragraphs (4)(A) and (5) of section 4081(c) are each amended by striking ''5.4 cents'' each place it appears and inserting ''the applicable blender rate (as defined in section 4041(b)(2)(A))''.

(4) Paragraph (1) of section 4091(c) is amended by striking ''13.4 cents'' each place it appears and inserting ''the applicable blender amount'' and by adding at the end the following new sentence: ''For purposes of this paragraph, the term 'applicable blender amount' means 13.3 cents in the case of any sale or use during 2001 or 2002, 13.2 cents in the case of any sale or use during 2003 or 2004, and 13.1 cents in the case of any sale or use during 2005 or thereafter.''.

(c) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on January 1, 2001.

SEC. 708. CLARIFICATION OF AUTHORITY TO USE SEMI-GENERIC DESIGNATIONS ON WINE LABELS.

(a) IN GENERAL.—Section 5388 (relating to designation of wines) is amended by adding at the end the following new subsection:

''(c) USE OF SEMI-GENERIC DESIGNATIONS.—A name of geographic significance, which is also the designation of a class or type of wine, shall be deemed to have become semi-generic only if so found by the Secretary. Semi-generic designations may be used to designate wines of an origin other than that indicated by such name only if—

''(1) there appears in direct conjunction therewith an appropriate appellation of origin disclosing the true place of origin of the wine, and

''(2) the wine so designated conforms to the standard of identity, if any, for such wine contained in the regulations in this section or, if there be no such standard, to the trade understanding of such class or type.

Examples of semi-generic names which are also type designations for grape wines are Angelica, Burgundy, Claret, Chablis, Champagne, Chianti, Malaga, Marsala, Madeira, Moselle, Port, Rhine Wine (syn. Hock), Sauterne, Haut Sauterne, Sherry, Tokay.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Provisions Relating to Pensions and Fringe Benefits

SEC. 711. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415.

(a) IN GENERAL.—Section 415(b)(11) is amended—

(1) by inserting ''or a multiemployer plan (as defined in section 414(f))'' after ''section 414(d))'', and

(2) by inserting ''AND MULTIEMPLOYER'' after ''GOVERNMENTAL'' in the heading thereof.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997.

SEC. 712. TECHNICAL CORRECTION RELATING TO PARTIAL TERMINATION OF PENSION PLANS.

(a) IN GENERAL.—So much of section 552 of the Tax Reform Act of 1984 (Public Law 98–369) as precedes subparagraph (A) of paragraph (1) is amended to read as follows:

''For purposes of interpreting or applying section 411(d)(3) of the Internal Revenue Code of 1986 (relating to minimum vesting standards in the case of partial termination), any other provision of Federal law, and any provision of any plan or trust which directly or indirectly incorporates, or is determined by reference to, such section 411(d)(3), a partial termination shall not have occurred based in whole or in part on a decline in plan participation if—

''(1) the decline in plan participation—''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provisions of section 552 of the Tax Reform Act of 1984.

SEC. 713. INCREASE IN CURRENT LIABILITY FUNDING LIMIT.

(a) AMENDMENT TO 1986 CODE.—Section 412(c)(7) (relating to full-funding limitation) is amended—

(A) by striking ''150 percent'' in subparagraph (A)(i)(I) and inserting ''the applicable percentage'', and

(B) by adding at the end the following:

''(F) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)(i)(I), the applicable percentage shall be determined in accordance with the following table:

''In the case of any plan year beginning in—	The applicable percentage is—
1999 or 2000	155
2001 or 2002	160
2003 or 2004	165
2005 and succeeding years	170.''.

(b) AMENDMENT TO ERISA.—Section 302(c)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)) is amended—

(A) by striking ''150 percent'' in subparagraph (A)(i)(I) and inserting ''the applicable percentage'', and

(B) by adding at the end the following:

''(F) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)(i)(I), the applicable percentage shall be determined in accordance with the following table:

''In the case of any plan year beginning in—	The applicable percentage is—
1999 or 2000	155
2001 or 2002	160
2003 or 2004	165
2005 and succeeding years	170.''.

(c) SPECIAL AMORTIZATION RULE.—

(1) CODE AMENDMENT.—Section 412(b)(2) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by inserting after subparagraph (D) the following:

''(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I).''.

(2) ERISA AMENDMENT.—Section 302(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)(2)) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by inserting after subparagraph (D) the following:

''(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of subsection (c)(7)(A)(i)(I).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 412(c)(7)(D) is amended by adding ''and'' at the end of clause (i), by striking '', and'' at the end of clause (ii) and inserting a period, and by striking clause (iii).

(B) Section 302(c)(7)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)(D)) is amended by adding ''and'' at the end of clause (i), by striking '', and'' at the end of clause (ii) and inserting a period, and by striking clause (iii).

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1998.

(B) SPECIAL RULE FOR 1999.—In the case of a plan's first year beginning in 1999, there shall be added to the amount required to be amortized under section 412(b)(2)(E) of the Internal Revenue Code of 1986 and section 302(b)(2)(E) of the Employee Retirement Income Security Act of 1974 (as added by paragraphs (1) and (2)) over the 20-year period beginning with such year, the unamortized balance (as of the close of the preceding plan year) of any amount required to be amortized under section 412(c)(7)(D)(iii) of such Code and section 302(c)(7)(D)(iii) of such Act (as repealed by paragraph (3)) for plan years beginning before 1999.

SEC. 714. SPOUSAL CONSENT REQUIRED FOR CERTAIN DISTRIBUTIONS AND LOANS UNDER QUALIFIED CASH OR DEFERRED ARRANGEMENT.

(a) IN GENERAL.—Section 401(k) is amended by adding at the end the following new paragraph:

''(13) SPOUSAL CONSENT REQUIRED.—

''(A) IN GENERAL.—An arrangement shall not be treated as a qualified cash or deferred arrangement unless—

''(i) a distribution under the plan of which such arrangement is a part, or

''(ii) a loan all or part of which is secured by the participant's interest in the plan of which such arrangement is a part,

may not be made without the written consent of the spouse.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

''(i) to distributions described in section 402(c)(4)(A) or 411(a)(11), or

''(ii) in any case described in section 417(a)(2) (relating to cases where spouse cannot be located).

''(C) OTHER RULES.—The Secretary shall prescribe rules similar to the rules under section 417 for the form and timing of any consent required by this paragraph.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to plan years beginning after December 31, 1998.

(2) PLAN AMENDMENTS.—A plan shall not be treated as failing to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 or section 204(g) of the Employee Retirement Income Security Act of 1974 merely because it is amended to meet the requirements of section 401(k)(4)(13) of such Code (as added by subsection (a)).

SEC. 715. SPECIAL RULES FOR CHURCH PLANS.

(a) IN GENERAL.—Section 414(e)(5) relating to special rules for chaplains and self-employed ministers is amended—

(1) by striking ''not eligible to participate'' in subparagraph (C) and inserting ''not otherwise participating'', and

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

''(E) EXCLUSION.—In the case of a contribution to a church plan made on behalf of a minister described in subparagraph (A)(i)(II), such contribution shall not be included in the gross income of the minister to the extent that such contribution would not be so included if the minister was an employee of a church.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997.

SEC. 716. REPEAL OF APPLICATION OF UNRELATED BUSINESS INCOME TAX TO ESOPS.

(a) IN GENERAL.—Section 512(e) is amended—

(1) by striking ''described in section 1361(c)(7)'' in paragraph (1) and inserting ''described in section 501(c)(3) and exempt from taxation under section 501(a)'', and

(2) by inserting ''CHARITABLE ORGANIZATIONS HOLDING STOCK IN'' after ''APPLICABLE TO'' in the heading.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 717. DIVERSIFICATION IN SECTION 401(k) PLAN INVESTMENTS.

(a) LIMITATIONS ON INVESTMENT IN EMPLOYER SECURITIES AND EMPLOYER REAL PROPERTY BY CASH OR DEFERRED ARRANGEMENTS.—Section 407(d)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)(3)) is amended by adding at the end the following:

''(D)(i) The term 'eligible individual account plan' does not include that portion of an individual account plan that consists of elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) pursuant to a qualified cash or deferred arrangement as defined in section 401(k) of the Internal Revenue Code of 1986 (and earnings allocable thereto), if such elective deferrals (or earnings allocable thereto) are required to be invested in qualifying employer securities or qualifying employer real property or both pursuant to the documents and instruments governing the plan or at the direction of a person other than the participant on whose behalf such elective deferrals are made to the plan (or the participant's beneficiary).

''(ii) For purposes of subsection (a), such portion shall be treated as a separate plan.

''(iii) This subparagraph shall not apply to an individual account plan if the fair market value of the assets of all individual account plans maintained by the employer equals not more than 10 percent of the fair market value of the assets of all pension plans maintained by the employer.

''(iv) This subparagraph shall not apply to an individual account plan that is an employee stock ownership plan as defined in section 409(a) or 4975(e)(7) of the Internal Revenue Code.

''(v) This subparagraph shall not apply to an individual account plan if not more than 1 percent of an employees eligible compensation deposited to the plan as an elective deferral (as so defined) is required to be invested in the qualifying employer securities.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to employer securities and employer real property acquired after the beginning of the first plan year beginning after the 90th day after the date of enactment of this Act.

(2) SPECIAL RULE FOR CERTAIN ACQUISITIONS.—Employer securities and employer real property acquired pursuant to a binding written contract to acquire such securities and real property in effect on the date of enactment of this Act and at all times thereafter, shall be treated as acquired immediately before such date.

Subtitle C—Revisions Relating to Disasters

SEC. 721. TREATMENT OF LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) DEFERRAL OF INCOME INCLUSION.—Subsection (e) of section 451 (relating to special rules for proceeds from livestock sold on account of drought) is amended—

(1) by striking ''drought conditions, and that these drought conditions'' in paragraph (1) and inserting ''drought, flood, or other weather-related conditions, and that such conditions''; and

(2) by inserting '', FLOOD, OR OTHER WEATHER-RELATED CONDITIONS'' after ''DROUGHT'' in the subsection heading.

(b) INVOLUNTARY CONVERSIONS.—Subsection (e) of section 1033 (relating to livestock sold on account of drought) is amended—

(1) by inserting '', flood, or other weather-related conditions'' before the period at the end thereof; and

(2) by inserting '', FLOOD, OR OTHER WEATHER-RELATED CONDITIONS'' after ''DROUGHT'' in the subsection heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after December 31, 1996.

SEC. 722. GAIN OR LOSS FROM SALE OF LIVESTOCK DISREGARDED FOR PURPOSES OF EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 32(i)(2)(D) (relating to disqualified income) is amended by inserting ''determined without regard to gain or loss from the sale of livestock described in section 1231(b)(3),'' after ''taxable year,''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 723. MORTGAGE FINANCING FOR RESIDENCES LOCATED IN DISASTER AREAS.

Subsection (k) of section 143 (relating to mortgage revenue bonds; qualified mortgage bond and qualified veteran's mortgage bond) is amended by adding at the end the following new paragraph:

''(11) SPECIAL RULES FOR RESIDENCES LOCATED IN DISASTER AREAS.—In the case of a residence located in an area determined by the President to warrant assistance from the Federal Government under the Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of the Revenue Reconciliation Act of 1997), this section shall be applied with the following modifications to financing provided with respect to such residence within 1 year after the date of the disaster declaration:

''(A) Subsection (d) (relating to 3-year requirement) shall not apply.

''(B) Subsections (e) and (f) (relating to purchase price requirement and income requirement) shall be applied as if such residence were a targeted area residence.

The preceding sentence shall apply only with respect to bonds issued after December 31, 1996, and before January 1, 1999.''.

SEC. 724. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS MAY BE USED WITHOUT PENALTY TO REPLACE OR REPAIR PROPERTY DAMAGED IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions), as amended by sections 203 and 303, is amended by adding at the end the following new subparagraph:

''(G) DISTRIBUTIONS FOR DISASTER-RELATED EXPENSES.—Distributions from an individual retirement plan which are qualified disaster-related distributions.''.

(b) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—Section 72(t), as amended by sections 203 and 303, is amended by adding at the end the following new paragraph:

''(9) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—For purposes of paragraph (2)(E)—

''(A) IN GENERAL.—The term 'qualified disaster-related distribution' means any payment or distribution received by an individual to the extent that the payment or distribution is used by such individual within 60 days of the payment or distribution to pay for the repair or replacement of tangible property which is disaster-damaged property.

''(B) LIMITATIONS.—

''(i) ONLY DISTRIBUTIONS WITHIN 2 YEARS.—The term 'qualified disaster-related distribution' shall only include any payment or distribution which is made during the 2-year period beginning on the date of the determination referred to in subparagraph (D).

''(ii) DOLLAR LIMITATION.—Such term shall not include distributions to the extent the amount of such distributions exceeds $10,000 during the 2-year period described in clause (i).

''(C) DISASTER-DAMAGED PROPERTY.—The term 'disaster-damaged property' means property—

''(i) which was located in a disaster area on the date of the determination referred to in subparagraph (C), and

''(ii) which was destroyed or substantially damaged as a result of the disaster occurring in such area.

''(D) DISASTER AREA.—The term 'disaster area' means an area determined by the President during 1997 to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996, with respect to disasters occurring after such date.

SEC. 725. ELIMINATION OF 10 PERCENT FLOOR FOR DISASTER LOSSES.

(a) GENERAL RULE.—Section 165(h)(2)(A) (relating to net casualty loss allowed only to the extent it exceeds 10 percent of adjusted gross income) is amended by striking clauses (i) and (ii) and inserting the following new clauses:

''(i) the amount of the personal casualty gains for the taxable year,

''(ii) the amount of the federally declared disaster losses for the taxable year (or, if lesser, the net casualty loss), plus

''(iii) the portion of the net casualty loss which is not deductible under clause (ii) but only to the extent such portion exceeds 10 percent of the adjusted gross income of the individual.

For purposes of the preceding sentence, the term 'net casualty loss' means the excess of personal casualty losses for the taxable year over personal casualty gains.''.

(b) FEDERALLY DECLARED DISASTER LOSS DEFINED.—Section 165(h)(3) (relating to treatment of casualty gains and losses) is amended by adding at the end the following new subparagraph:

''(C) FEDERALLY DECLARED DISASTER LOSS.—

''(i) IN GENERAL.—The term 'federally declared disaster loss' means any personal casualty loss attributable to a disaster occurring during 1997 in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

''(ii) DOLLAR LIMITATION.—Such term shall not include personal casualty losses to the extent such losses exceed $10,000 for the taxable year.''.

(c) CONFORMING AMENDMENT.—The heading for section 165(h)(2) is amended by striking ''NET CASUALTY LOSS'' and inserting ''NET NONDISASTER CASUALTY LOSS''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to losses attributable to disasters occurring after December 31, 1996, including for purposes of determining the portion of such losses allowable in taxable years ending before such date pursuant to an election under section 165(i) of the Internal Revenue Code of 1986.

SEC. 726. ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end the following:

''(h) ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—

''(1) IN GENERAL.—If the Secretary extends for any period the time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 (and waives any penalties relating to the failure to so file or so pay) for any individual located in a Presidentially declared disaster

area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

''(2) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of paragraph (1), the term 'Presidentially declared disaster area' means, with respect to any individual, any area which the President has determined during 1997 warrants assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

''(3) INDIVIDUAL.—For purposes of this subsection, the term 'individual' shall not include any estate or trust.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters declared after December 31, 1996.

Subtitle D—Provisions Relating to Small Businesses

SEC. 731. WAIVER OF PENALTY THROUGH JUNE 30, 1998, ON SMALL BUSINESSES FAILING TO MAKE ELECTRONIC FUND TRANSFERS OF TAXES.

No penalty shall be imposed under the Internal Revenue Code of 1986 solely by reason of a failure by a person to use the electronic fund transfer system established under section 6302(h) of such Code if—

(1) such person is a member of a class of taxpayers first required to use such system on or after July 1, 1997, and

(2) such failure occurs before July 1, 1998.

SEC. 732. MINIMUM TAX NOT TO APPLY TO FARMERS' INSTALLMENT SALES.

(a) IN GENERAL.—Subsection (a) of section 56 is amended by striking paragraph (6) (relating to treatment of installment sales).

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to dispositions in taxable years beginning after December 31, 1987.

(2) SPECIAL RULE FOR 1987.—In the case of taxable years beginning in 1987, the last sentence of section 56(a)(6) of the Internal Revenue Code of 1986 (as in effect for such taxable years) shall be applied by inserting ''or in the case of a taxpayer using the cash receipts and disbursements method of accounting, any disposition described in section 453C(e)(1)(B)(ii)'' after ''section 453C(e)(4)''.

SEC. 733. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—The table contained in section 162(l)(1)(B) is amended to read as follows:

''For taxable years beginning in calendar year—	The applicable percentage is—
1997	50
1998	50
1999 through 2001	60
2002	60
2003	70
2004	80
2005	85
2006	90
2007	100.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 734. SENSE OF THE SENATE WITH RESPECT TO SELF-EMPLOYMENT TAX OF LIMITED PARTNERS.

(a) FINDINGS.—The Senate finds that—

(1) the Department of the Treasury issued Proposed Regulation 1.1402(a)–2 in January 1997 relating to the definition of a limited partner for self-employment tax purposes under section 1402(a)(13) of the Internal Revenue Code;

(2) since 1977, section 1402(a)(13) of such Code has provided that—

(A) a limited partner's net earnings from self-employment include only guaranteed payments made to the individual for services actually rendered and do not include a limited partner's distributive share of the income or loss of the partnership, and

(B) a general partner's net earnings from self-employment include the partner's distributive share;

(3) the proposed regulations provide generally—

(A) that a partner will not be treated as a limited partner if the individual—

(i) has personal liability for partnership debts,

(ii) has authority to contract on behalf of the partnership, or

(iii) participates in the partnership's trade or business for more than 500 hours during the taxable year;

(B) that an individual meeting any one of these three criteria will be treated as a general partner, and net earnings from self-employment will include the partner's distributive share of partnership income and loss, resulting in substantial tax liability because there is a 15.3 percent tax on self-employment income below $65,400 in 1997 and a 2.9 percent hospital insurance tax on self-employment income above that amount;

(4) certain types of entities, such as limited liability companies and limited liability partnerships, were not widely used at the time the present rule relating to limited partners was enacted, and that the proposed regulations attempt to address owners of such entities;

(5) the Senate is concerned that the proposed change in the treatment of individuals who are limited partners under applicable State law exceeds the regulatory authority of the Treasury Department and would effectively change the law administratively without congressional action; and

(6) the proposed regulations address and raise significant policy issues and the proposed definition of a limited partner may have a substantial impact on the tax liability of certain individuals and may also affect individuals' entitlement to social security benefits.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the Department of the Treasury and the Internal Revenue Service should withdraw Proposed Regulation 1.1402(a)–2 which imposes a tax on limited partners; and

(2) Congress, not the Department of the Treasury or the Internal Revenue Service, should determine the tax law governing self-employment income for limited partners.

Subtitle E—Foreign Provisions

PART I—GENERAL PROVISIONS

SEC. 741. TREATMENT OF COMPUTER SOFTWARE AS FSC EXPORT PROPERTY.

(a) IN GENERAL.—Subparagraph (B) of section 927(a)(2) (relating to property excluded from eligibility as FSC export property) is amended by inserting '', and other than computer software (whether or not patented)'' before '', for commercial or home use''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to gross receipts attributable to periods after December 31, 1997, in taxable years ending after such date.

SEC. 742. DENIAL OF TREATY BENEFITS FOR CERTAIN PAYMENTS THROUGH HYBRID ENTITIES.

(a) IN GENERAL.—Section 894 (relating to income affected by treaty) is amended by inserting after subsection (b) the following new subsection:

''(c) DENIAL OF TREATY BENEFITS FOR CERTAIN PAYMENTS THROUGH HYBRID ENTITIES.—The Secretary shall prescribe such regulations as may be necessary or appropriate to determine the extent to which a taxpayer shall be denied benefits under any income tax treaty of the United States with respect to any payment received by, or income attributable to any activities of, an entity organized in any jurisdiction (including the United States) that is treated as a partnership or is otherwise treated as fiscally transparent for United States Federal income tax purposes (including a common investment trust under section 584, a grantor trust, or an entity that is disregarded for United States Federal income tax purposes) and is treated as fiscally nontransparent for purposes of the tax laws of the jurisdiction of residence of the taxpayer.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply upon the date of enactment of this Act.

SEC. 743. UNITED STATES PROPERTY NOT TO INCLUDE CERTAIN ASSETS ACQUIRED BY DEALERS IN ORDINARY COURSE OF TRADE OR BUSINESS.

(a) IN GENERAL.—Section 956(c)(2) is amended by striking ''and'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting a semicolon, and by adding at the end the following new subparagraphs:

''(J) deposits of cash or securities made or received on commercial terms in the ordinary course of a United States or foreign person's business as a dealer in securities or in commodities, but only to the extent such deposits are made or received as collateral or margin for (i) a securities loan, notional principal contract, options contract, forward contract, or futures contract, or (ii) any other financial transaction in which the Secretary determines that it is customary to post collateral or margin; and

''(K) an obligation of a United States person to the extent the principal amount of the obligation does not exceed the fair market value of readily marketable securities sold or purchased pursuant to a sale and repurchase agreement or otherwise posted or received as collateral for the obligation in the ordinary course of its business by a United States or foreign person which is a dealer in securities or commodities.

For purposes of subparagraphs (J) and (K), the term 'dealer in securities' has the meaning given such term by section 475(c)(1), and the term 'dealer in commodities' means a futures commission merchant or any person which would be a dealer in securities if securities under section 475(c)(2) included commodities, evidences of an interest in commodities, and derivative instruments in respect of commodities (other than any activity gain or loss from which is described in section 1256(a)(3)).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1997, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 744. EXEMPTION FOR ACTIVE FINANCING INCOME.

(a) EXEMPTION FROM FOREIGN PERSONAL HOLDING COMPANY INCOME.—Subsection (c) of section 954 is amended by adding at the end the following new paragraph:

''(4) CERTAIN INCOME DERIVED IN ACTIVE CONDUCT OF TRADE OR BUSINESS.—

''(A) IN GENERAL.—For purposes of paragraph (1), foreign personal holding company income shall not include income which is—

''(i) derived in or incident to the active conduct by a controlled foreign corporation of a banking, financing, or similar business, but only if the corporation is predominantly engaged in the active conduct of such business,

''(ii) received from a person other than a related person (within the meaning of subsection (d)(3)) and derived from the investments made by a qualifying insurance company of its unearned premiums or reserves ordinary and necessary for the proper conduct of its insurance business, or

''(iii) received from a person other than a related person (within the meaning of subsection (d)(3)) and derived from investments made by a qualifying insurance company of an amount of its assets equal to—

''(I) in the case of contracts regulated in the country in which sold as property, casualty, or health insurance contracts, one-third of its premiums earned on insurance contracts during the taxable year (as defined in section 832(b)(4)), and

''(II) in the case of contracts regulated in the country in which sold as life insurance or annuity contracts, the greater of 10 percent of the reserves described in clause (ii) or $10,000,000,

which are not directly or indirectly attributable to the insurance or reinsurance of risks of persons who are related persons (within the meaning of subsection (d)(3)).

''(B) APPLICABLE PRINCIPLES.—

''(i) BANKING, ETC. INCOME.—The Secretary shall prescribe regulations which interpret subparagraph (A)(i) in accordance with the applicable principles of section 904(d)(2)(C), except that in prescribing such regulations, the Secretary shall include income from all leases in income from a banking, financing, or similar business.

''(ii) LOOK-THRU RULES.—The Secretary shall prescribe regulations consistent with the principles of section 904(d)(3) which provide that dividends, interest, income equivalent to interest, rents, or royalties received or accrued from a related person (within the meaning of subsection (d)(3)) shall be subject to look-thru treatment for purposes of this section.

''(iii) SPECIAL RULE FOR BANKING OR SECURITIES BUSINESS.—In the case of a corporation described in subparagraph (C)(ii), the regulations under clauses (i) and (ii) shall be consistent with the applicable principles of section 1296(b) (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1997).

''(C) PREDOMINANTLY ENGAGED.—For purposes of subparagraph (A)(i), a corporation shall be deemed predominantly engaged in the active conduct of a banking, financing, or similar business only if—

''(i) more than 70 percent of its gross income from such business is derived from transactions with unrelated persons (as defined in subsection (d)(3)), and more than 20 percent of its gross income from that business is derived from transactions with unrelated persons (as so defined) located within the country under the laws of which the controlled foreign corporation is created or organized, or

''(ii) the corporation is—

''(I) predominantly engaged in the active conduct of a banking or securities business (within the meaning of section 1296(b), as in effect before the enactment of the Revenue Reconciliation Act of 1997), or

''(II) a qualified bank affiliate or a qualified securities affiliate for purposes of section 1296(b) (as so in effect).

''(D) QUALIFYING INSURANCE COMPANY.—For purposes of clauses (ii) and (iii) of subparagraph (A), the term 'qualifying insurance company' means any entity which is subject to regulation as an insurance company under the laws of its country of incorporation and which realizes at least 50 percent of its gross income (other than gross income derived from investments) from premiums written on risks situated within its country of incorporation.

''(E) APPLICATION.—This paragraph shall apply to taxable years of foreign corporations beginning after December 31, 1997, and before January 1, 1999, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.''.

(b) EXEMPTION FROM FOREIGN BASE COMPANY SERVICES INCOME.—Paragraph (2) of section 954(e) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by adding at the end the following:

''(C) in the case of taxable years described in subsection (c)(4)(E), the active conduct by a controlled foreign corporation of a banking, financing, insurance, or similar business, but only if the corporation is predominantly engaged in the active conduct of that business (within the meaning of subsection (c)(4)(C)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1997, and before January 1, 1999, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 745. TREATMENT OF NONRESIDENT ALIENS ENGAGED IN INTERNATIONAL TRANSPORTATION SERVICES.

(a) SOURCING RULES.—

(1) IN GENERAL.—Section 861(a)(3) is amended by adding at the end the following new flush sentence:

''In addition, compensation for labor or services performed in the United States shall not be deemed to be income from sources within the United States if the labor or services are performed by a nonresident alien individual in connection with the individual's temporary presence in the United States as a regular member of the crew of a foreign vessel engaged in transportation between the United States and a foreign country or a possession of the United States.''.

(2) TRANSPORTATION INCOME.—Subparagraph (B) of section 863(c)(2) is amended by adding at the end the following flush sentence:

''In the case of transportation income derived from, or in connection with, a vessel, this subparagraph shall only apply if the taxpayer is a citizen or resident alien.''.

(3) CONFORMING AMENDMENT.—Section 410(b)(3)(C) is amended by inserting ''without regard to the last sentence thereof'' after ''section 861(a)(3)''.

(b) EXCLUSION FROM INCOME.—Section 872(b) is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

''(6) PERSONAL SERVICES OF CREW MEMBERS.—Income derived by an individual resident of a foreign country from personal services as a regular crew member on board a vessel to which paragraph (1) applies.''.

(c) PRESENCE IN UNITED STATES.—

(1) IN GENERAL.—Paragraph (7) of section 7701(b) is amended by adding at the end the following new subparagraph:

''(D) CREW MEMBERS TEMPORARILY PRESENT.—If an individual is temporarily present in the United States as a regular member of the crew of a foreign vessel engaged in transportation between the United States and a foreign country or a possession of the United States, such individual shall not be treated as present in the United States on any such day.''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 7701(b)(7) is amended by striking ''or (C)'' and inserting '', (C), or (D)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to remuneration for services performed in taxable years beginning after December 31, 1997.

(2) PRESENCE.—The amendment made by subsection (c) shall apply to taxable years beginning after December 31, 1997.

PART II—TREATMENT OF PASSIVE FOREIGN INVESTMENT COMPANIES

SEC. 751. UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS NOT SUBJECT TO PFIC INCLUSION.

Section 1296 is amended by adding at the end the following new subsection:

''(e) EXCEPTION FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—

''(1) IN GENERAL.—For purposes of this part, a corporation shall not be treated with respect to a shareholder as a passive foreign investment company during the qualified portion of such shareholder's holding period with respect to stock in such corporation.

''(2) QUALIFIED PORTION.—For purposes of this subsection, the term 'qualified portion' means the portion of the shareholder's holding period—

''(A) which is after December 31, 1997, and

''(B) during which the shareholder is a United States shareholder (as defined in section 951(b)) of the corporation and the corporation is a controlled foreign corporation.

''(3) NEW HOLDING PERIOD IF QUALIFIED PORTION ENDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), if the qualified portion of a shareholder's holding period with respect to any stock ends after December 31, 1997, solely for purposes of this part, the shareholder's holding period with respect to such stock shall be treated as beginning as of the first day following such period.

''(B) EXCEPTION.—Subparagraph (A) shall not apply if such stock was, with respect to such shareholder, stock in a passive foreign investment company at any time before the qualified portion of the shareholder's holding period with respect to such stock and no election under section 1298(b)(1) is made.''.

SEC. 752. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK IN PASSIVE FOREIGN INVESTMENT COMPANY.

(a) IN GENERAL.—Part VI of subchapter P of chapter 1 is amended by redesignating subpart C as subpart D, by redesignating sections 1296 and 1297 as sections 1297 and 1298, respectively, and by inserting after subpart B the following new subpart:

''Subpart C—Election of Mark to Market For Marketable Stock

''Sec. 1296. Election of mark to market for marketable stock.

''SEC. 1296. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK.

''(a) GENERAL RULE.—In the case of marketable stock in a passive foreign investment company which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person, at the election of such person—

''(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

''(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

''(A) the amount of such excess, or

''(B) the unreversed inclusions with respect to such stock.

''(b) BASIS ADJUSTMENTS.—

''(1) IN GENERAL.—The adjusted basis of stock in a passive foreign investment company—

''(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and

''(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

''(2) SPECIAL RULE FOR STOCK CONSTRUCTIVELY OWNED.—In the case of stock in a passive foreign investment company which the United States person is treated as owning under subsection (g)—

''(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

''(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

''(c) CHARACTER AND SOURCE RULES.—

''(1) ORDINARY TREATMENT.—

''(A) GAIN.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect), shall be treated as ordinary income.

''(B) LOSS.—Any—

''(i) amount allowed as a deduction under subsection (a)(2), and

''(ii) loss on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect) to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock,

shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

''(2) SOURCE.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign investment company.

''(d) UNREVERSED INCLUSIONS.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign investment company, the excess (if any) of—

''(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

''(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1291.

''(e) MARKETABLE STOCK.—For purposes of this section—

''(1) IN GENERAL.—The term 'marketable stock' means—

''(A) any stock which is regularly traded on—

''(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

''(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part,

''(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, and

''(C) to the extent provided in regulations, any option on stock described in subparagraph (A) or (B).

''(2) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign investment company which it owns directly or indirectly shall be treated as marketable stock for purposes of this section. Except as provided in regulations, similar treatment as marketable stock shall apply in the case of any other regulated investment company which publishes net asset valuations at least annually.

''(f) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE FOREIGN INVESTMENT COMPANIES.—In the case of a foreign corporation which is a controlled foreign corporation and which owns (or is treated under subsection (g) as owning) stock in a passive foreign investment company—

''(1) this section (other than subsection (c)(2)) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

''(2) for purposes of subpart F of part III of subchapter N—

''(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

''(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

''(g) STOCK OWNED THROUGH CERTAIN FOREIGN ENTITIES.—Except as provided in regulations—

''(1) IN GENERAL.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

''(2) TREATMENT OF CERTAIN DISPOSITIONS.—In any case in which a United States person is treated as owning stock in a passive foreign investment company by reason of paragraph (1)—

''(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

''(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign investment company.

''(h) COORDINATION WITH SECTION 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

''(i) STOCK ACQUIRED FROM A DECEDENT.—In the case of stock of a passive foreign investment company which is acquired by bequest, devise, or inheritance (or by the decedent's estate) and with respect to which an election under this section was in effect as of the date of the decedent's death, notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this subsection).

''(j) COORDINATION WITH SECTION 1291 FOR FIRST YEAR OF ELECTION.—

''(1) TAXPAYERS OTHER THAN REGULATED INVESTMENT COMPANIES.—

''(A) IN GENERAL.—If the taxpayer elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, and if the requirements of subparagraph (B) are not satisfied, section 1291 shall apply to—

''(i) any distributions with respect to, or disposition of, such stock in the first taxable year of the taxpayer for which such election is made, and

''(ii) any amount which, but for section 1291, would have been included in gross income under subsection (a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

''(B) REQUIREMENTS.—The requirements of this subparagraph are met if, with respect to each of such corporation's taxable years for which such corporation was a passive foreign investment company and which begin after December 31, 1986, and included any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part with respect to the taxpayer.

''(2) SPECIAL RULES FOR REGULATED INVESTMENT COMPANIES.—

''(A) IN GENERAL.—If a regulated investment company elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, then, with respect to such company's first taxable year for which such company elects the application of this section with respect to such stock—

''(i) section 1291 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

''(ii) such regulated investment company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1291(c)(3) if section 1291 were applied without regard to this subparagraph.

Clause (ii) shall not apply if for the preceding taxable year the company elected to mark to market the stock held by such company as of the last day of such preceding taxable year.

''(B) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).

''(k) ELECTION.—This section shall apply to marketable stock in a passive foreign investment company which is held by a United States person only if such person elects to apply this section with respect to such stock. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless—

''(1) such stock ceases to be marketable stock, or

''(2) the Secretary consents to the revocation of such election.

''(l) TRANSITION RULE FOR INDIVIDUALS BECOMING SUBJECT TO UNITED STATES TAX.—If any individual becomes a United States person in a taxable year beginning after December 31, 1997, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign investment company owned by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day.''.

(b) COORDINATION WITH INTEREST CHARGE, ETC.—

(1) Paragraph (1) of section 1291(d) is amended by adding at the end the following new flush sentence:

''Except as provided in section 1296(j), this section also shall not apply if an election under section 1296(k) is in effect for the taxpayer's taxable year.''.

(2) The subsection heading for subsection (d) of section 1291 is amended by striking ''SUBPART B'' and inserting ''SUBPARTS B AND C''.

(3) Subparagraph (A) of section 1291(a)(3) is amended to read as follows:

''(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—

''(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

''(ii) if section 1296 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1296 so applied.''.

(c) TREATMENT OF MARK-TO-MARKET GAIN UNDER SECTION 4982.—

(1) Subsection (e) of section 4982 is amended by adding at the end thereof the following new paragraph:

''(6) TREATMENT OF GAIN RECOGNIZED UNDER SECTION 1296.—For purposes of determining a regulated investment company's ordinary income—

''(A) notwithstanding paragraph (1)(C), section 1296 shall be applied as if such company's taxable year ended on October 31, and

''(B) any ordinary gain or loss from an actual disposition of stock in a passive foreign investment company during the portion of the calendar year after October 31 shall be taken into account in determining such regulated investment company's ordinary income for the following calendar year.

In the case of a company making an election under paragraph (4), the preceding sentence

shall be applied by substituting the last day of the company's taxable year for October 31.''.

(2) Subsection (b) of section 852 is amended by adding at the end thereof the following new paragraph:

''(10) SPECIAL RULE FOR CERTAIN LOSSES ON STOCK IN PASSIVE FOREIGN INVESTMENT COMPANY.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net reduction in the value of any stock of a passive foreign investment company with respect to which an election under section 1296(k) is in effect occurring after October 31 of the taxable year, and any such reduction shall be treated as occurring on the first day of the following taxable year.''.

(3) Subsection (c) of section 852 is amended by inserting after ''October 31 of such year'' the following: '', without regard to any net reduction in the value of any stock of a passive foreign investment company with respect to which an election under section 1296(k) is in effect occurring after October 31 of such year,''.

(d) CONFORMING AMENDMENTS.—

(1) Sections 532(b)(4) and 542(c)(10) are each amended by striking ''section 1296'' and inserting ''section 1297''.

(2) Subsection (f) of section 551 is amended by striking ''section 1297(b)(5)'' and inserting ''section 1298(b)(5)''.

(3) Subsections (a)(1) and (d) of section 1293 are each amended by striking ''section 1297(a)'' and inserting ''section 1298(a)''.

(4) Paragraph (3) of section 1297(b), as redesignated by subsection (a), is hereby repealed.

(5) The table of sections for subpart D of part VI of subchapter P of chapter 1, as redesignated by subsection (a), is amended to read as follows:

''Sec. 1297. Passive foreign investment company.

''Sec. 1298. Special rules.''.

(6) The table of subparts for part VI of subchapter P of chapter 1 is amended by striking the last item and inserting the following new items:

''Subpart C. Election of mark to market for marketable stock.

''Subpart D. General provisions.''.

(e) CLARIFICATION OF GAIN RECOGNITION ELECTION.—The last sentence of section 1298(b)(1), as so redesignated, is amended by inserting ''(determined without regard to the preceding sentence)'' after ''investment company''.

SEC. 753. EFFECTIVE DATE.

The amendments made by this part shall apply to—

(1) taxable years of United States persons beginning after December 31, 1997, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

Subtitle F—Other Provisions

SEC. 761. TAX-EXEMPT STATUS FOR CERTAIN STATE WORKER'S COMPENSATION ACT COMPANIES.

(a) IN GENERAL.—Section 501(c)(27) (relating to membership organizations under workmen's compensation acts) is amended by adding at the end the following:

''(B) Any organization (including a mutual insurance company) if—

''(i) such organization is created by State law and is organized and operated under State law exclusively to—

''(I) provide workmen's compensation insurance which is required by State law or with respect to which State law provides significant disincentives if such insurance is not purchased by an employer, and

''(II) provide related coverage which is incidental to workmen's compensation insurance,

''(ii) such organization must provide workmen's compensation insurance to any employer in the State (for employees in the State or temporarily assigned out-of-State) which seeks such insurance and meets other reasonable requirements relating thereto,

''(iii)(I) the State makes a financial commitment with respect to such organization either by extending the full faith and credit of the State to debt of such organization or by providing the initial operating capital of such organization and (II) in the case of periods after the date of enactment of this subparagraph, the assets of such organization revert to the State upon dissolution, and

''(iv) the majority of the board of directors or oversight body of such organization are appointed by the chief executive officer or other executive branch official of the State, by the State legislature, or by both.''.

(b) CONFORMING AMENDMENTS.—Section 501(c)(27) of such Code is amended by inserting ''(A)'' after ''(27)'', by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and by redesignating clauses (i) and (ii) of subparagraphs (B) and (C) (before redesignation) as subclauses (I) and (II), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 762. ELECTION TO CONTINUE EXCEPTION FROM TREATMENT OF PUBLICLY TRADED PARTNERSHIPS AS CORPORATIONS.

(a) IN GENERAL.—Section 7704 is amended by adding at the end thereof the following new subsection:

''(g) EXCEPTION FOR EXISTING PUBLICLY TRADED PARTNERSHIPS.—

''(1) IN GENERAL.—Subsection (a) shall not apply to an existing publicly traded partnership which elects the application of this subsection and consents to the application of the tax imposed by paragraph (3).

''(2) EXISTING PUBLICLY TRADED PARTNERSHIP.—For purposes of this section, the term 'existing publicly traded partnership' means any publicly traded partnership to which subsection (a) does not apply as of the date of the enactment of this paragraph (other than by reason of subsection (c)(1)).

''(3) ADDITIONAL TAX ON ELECTING PUBLICLY TRADED PARTNERSHIPS.—

''(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year on the income of every electing publicly traded partnership a tax equal to 3.5 percent of the gross income for such taxable year from the active conduct of trades and businesses by the partnership.

''(B) ELECTING PUBLICLY TRADED PARTNERSHIP.—For purposes of this paragraph, the term 'electing publicly traded partnership' means any partnership for which the consent under paragraph (1) is in effect.

''(C) ADJUSTMENTS IN THE CASE OF TIERED PARTNERSHIPS.—For purposes of this paragraph, if the income of the partnership includes its distributive share of income from another partnership for any taxable year, the gross income referred to in subparagraph (A) shall include the gross income of such other partnership from the active conduct of trades and businesses of such other partnership (in lieu of such distributive share). A similar rule shall apply in the case of lower-tiered partnerships.

''(D) TREATMENT OF TAX.—For purposes of this title, the tax imposed by this paragraph shall be treated as imposed by chapter 1 other than for purposes of determining the amount of any credit allowable under chapter 1.

''(4) ELECTION.—An election and consent under this subsection shall apply to the taxable year for which made and all subsequent taxable years unless revoked by the partnership. Such revocation may be made without the consent of the Secretary, but, once so revoked, may not be reinstated.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 763. EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN SPONSORSHIP PAYMENTS.

(a) IN GENERAL.—Section 513 (relating to unrelated trade or business income) is amended by adding at the end the following new subsection:

''(i) TREATMENT OF CERTAIN SPONSORSHIP PAYMENTS.—

''(1) IN GENERAL.—The term 'unrelated trade or business' does not include the activity of soliciting and receiving qualified sponsorship payments.

''(2) QUALIFIED SPONSORSHIP PAYMENTS.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified sponsorship payment' means any payment made by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use or acknowledgement of the name or logo (or product lines) of such person's trade or business in connection with the activities of the organization that receives such payment. Such a use or acknowledgement does not include advertising such person's products or services (including messages containing qualitative or comparative language, price information or other indications of savings or value, an endorsement, or an inducement to purchase, sell, or use such products or services).

''(B) LIMITATIONS.—

''(i) CONTINGENT PAYMENTS.—The term 'qualified sponsorship payment' does not include any payment if the amount of such payment is contingent upon the level of attendance at one or more events, broadcast ratings, or other factors indicating the degree of public exposure to one or more events.

''(ii) ACKNOWLEDGEMENTS OR ADVERTISING IN PERIODICALS.—The term 'qualified sponsorship payment' does not include any payment which entitles the payor to an acknowledgement or advertising in regularly scheduled and printed material published by or on behalf of the payee organization that is not related to and primarily distributed in connection with a specific event conducted by the payee organization.

''(3) ALLOCATION OF PORTIONS OF SINGLE PAYMENT.—For purposes of this subsection, to the extent that a portion of a payment would (if made as a separate payment) be a qualified sponsorship payment, such portion of such payment and the other portion of such payment shall be treated as separate payments.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments solicited or received after December 31, 1997.

SEC. 764. ASSOCIATIONS OF HOLDERS OF TIMESHARE INTERESTS TO BE TAXED LIKE OTHER HOMEOWNERS ASSOCIATIONS.

(a) TIMESHARE ASSOCIATIONS INCLUDED AS HOMEOWNER ASSOCIATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 528(c) (defining homeowners association) is amended—

(A) by striking ''or a residential real estate management association'' and inserting '', a residential real estate management association, or a timeshare association'' in the material preceding subparagraph (A),

(B) by striking ''or'' at the end of clause (i) of subparagraph (B), by striking the period at the end of clause (ii) of subparagraph (B) and inserting '', or'', and by adding at the end of subparagraph (B) the following new clause:

''(iii) owners of timeshare rights to use, or timeshare ownership interests in, association property in the case of a timeshare association,'', and

(C) by inserting ''and, in the case of a timeshare association, for activities provided to or on behalf of members of the association'' before the comma at the end of subparagraph (C).

(2) TIMESHARE ASSOCIATION DEFINED.—Subsection (c) of section 528 is amended by redesignating paragraph (4) as paragraph (5) and by

inserting after paragraph (3) the following new paragraph:

''(4) TIMESHARE ASSOCIATION.—The term 'timeshare association' means any organization (other than a condominium management association) meeting the requirement of subparagraph (A) of paragraph (1) if any member thereof holds a timeshare right to use, or a timeshare ownership interest in, real property constituting association property.''.

(b) EXEMPT FUNCTION INCOME.—Paragraph (3) of section 528(d) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by adding at the end the following new subparagraph:

''(C) owners of timeshare rights to use, or timeshare ownership interests in, real property in the case of a timeshare association.''.

(c) ASSOCIATION PROPERTY.—Paragraph (5) of section 528(c), as redesignated by paragraph (2), is amended by adding at the end the following new flush sentence:

''In the case of a timeshare association, such term includes property in which the timeshare association, or members of the association, have rights arising out of recorded easements, covenants, or other recorded instruments to use property related to the timeshare project.''.

(d) RATE OF TAX.—Subsection (b) of section 528 (relating to certain homeowners associations) is amended by inserting before the period ''(32 percent of such income in the case of a timeshare association)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 765. INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL HOURS OF SERVICE AND SEAFOOD PROCESSORS.

(a) IN GENERAL.—Section 274(n) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL HOURS OF SERVICE AND SEAFOOD PROCESSORS.—

''(A) IN GENERAL.—In the case of any expenses for food or beverages consumed—

''(i) while away from home (within the meaning of section 162(a)(2)) by an individual during, or incident to, the period of duty subject to the hours of service limitations of the Department of Transportation, or

''(ii) by an individual in connection with the individual's employment at a seafood processing facility located in the United States, North of 53 degrees North latitude,

paragraph (1) shall be applied by substituting 'the applicable percentage' for '50 percent'.

''(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the term 'applicable percentage' means the percentage determined under the following table:

''For taxable years beginning in calendar year—	The applicable percentage is—
1998 or 1999	55
2000 or 2001	60
2002 or 2003	65
2004 or 2005	70
2006 or 2007	75
2008 or thereafter	80.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 766. DEDUCTION IN COMPUTING ADJUSTED GROSS INCOME FOR EXPENSES IN CONNECTION WITH SERVICE PERFORMED BY CERTAIN OFFICIALS.

(a) IN GENERAL.—Paragraph (2) of section 62(a) (defining adjusted gross income) is amended by adding at the end the following new subparagraph:

''(C) CERTAIN EXPENSES OF OFFICIALS.—The deductions allowed by section 162 which consist of expenses paid or incurred with respect to services performed by an official as an employee of a State or a political subdivision thereof in a position compensated in whole or in part on a fee basis.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses paid or incurred in taxable years beginning after December 31, 1997.

SEC. 767. INCREASE IN STANDARD MILEAGE RATE EXPENSE DEDUCTION FOR CHARITABLE USE OF PASSENGER AUTOMOBILE.

(a) IN GENERAL.—Section 170(i) (relating to standard mileage rate for use of passenger automobile) is amended to read as follows:

''(i) STANDARD MILEAGE RATE FOR USE OF PASSENGER AUTOMOBILE.—

''(1) GENERAL RULE.—Except as provided in paragraph (2), for purposes of computing the deduction under this section for use of a passenger automobile, the standard mileage rate shall be 15 cents per mile.

''(2) INDEXING AFTER 1998.—In the case of taxable years beginning in a calendar year after 1998, the 15-cent amount under paragraph (1) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, except that subparagraph (B) thereof shall be applied by substituting '1997' for '1992'. If the amount as increased under the preceding sentence is not a multiple of 1 cent, such amount shall be rounded to the next lowest multiple of 1 cent.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 768. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by adding at the end the following new section:

''SEC. 198. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

''(a) IN GENERAL.—A taxpayer may elect to treat any qualified environmental remediation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

''(b) QUALIFIED ENVIRONMENTAL REMEDIATION EXPENDITURE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified environmental remediation expenditure' means any expenditure—

''(A) which is otherwise chargeable to capital account, and

''(B) which is paid or incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

''(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—Such term shall not include any expenditure for the acquisition of property of a character subject to the allowance for depreciation which is used in connection with the abatement or control of hazardous substances at a qualified contaminated site; except that the portion of the allowance under section 167 for such property which is otherwise allocated to such site shall be treated as a qualified environmental remediation expenditure.

''(c) QUALIFIED CONTAMINATED SITE.—For purposes of this section—

''(1) QUALIFIED CONTAMINATED SITE.—

''(A) IN GENERAL.—The term 'qualified contaminated site' means any area—

''(i) which is held by the taxpayer for use in a trade or business or for the production of income, or which is property described in section 1221(1) in the hands of the taxpayer,

''(ii) which is within a targeted area, and

''(iii) at or on which there has been a release (or threat of release) or disposal of any hazardous substance.

''(B) TAXPAYER MUST RECEIVE STATEMENT FROM STATE ENVIRONMENTAL AGENCY.—An area shall be treated as a qualified contaminated site with respect to expenditures paid or incurred during any taxable year only if the taxpayer receives a statement from the appropriate agency of the State in which such area is located that such area meets the requirements of clauses (ii) and (iii) of subparagraph (A).

''(C) APPROPRIATE STATE AGENCY.— For purposes of subparagraph (B), the appropriate agency of a State is the agency designated by the Administrator of the Environmental Protection Agency for purposes of this section. If no agency of a State is designated under the preceding sentence, the appropriate agency for such State shall be the Environmental Protection Agency.

''(2) TARGETED AREA.—

''(A) IN GENERAL.—The term 'targeted area' means—

''(i) any empowerment zone or enterprise community (and any supplemental zone designated on December 21, 1994), and

''(ii) any site announced before February 1, 1997, as being included as a brownfields pilot project of the Environmental Protection Agency.

''(B) NATIONAL PRIORITIES LISTED SITES NOT INCLUDED.—Such term shall not include any site which is on, or proposed for, the national priorities list under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this section).

''(C) CERTAIN RULES TO APPLY.—For purposes of this paragraph the rules of sections 1392(b)(4) and 1393(a)(9) shall apply.

''(d) HAZARDOUS SUBSTANCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'hazardous substance' means—

''(A) any substance which is a hazardous substance as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

''(B) any substance which is designated as a hazardous substance under section 102 of such Act.

''(2) EXCEPTION.—Such term shall not include any substance with respect to which a removal or remedial action is not permitted under section 104 of such Act by reason of subsection (a)(3) thereof.

''(e) DEDUCTION RECAPTURED AS ORDINARY INCOME ON SALE, ETC.—Solely for purposes of section 1245, in the case of property to which a qualified environmental remediation expenditure would have been capitalized but for this section—

''(1) the deduction allowed by this section for such expenditure shall be treated as a deduction for depreciation, and

''(2) such property (if not otherwise section 1245 property) shall be treated as section 1245 property solely for purposes of applying section 1245 to such deduction.

''(f) COORDINATION WITH OTHER PROVISIONS.—Sections 280B and 468 shall not apply to amounts which are treated as expenses under this section.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 198. Expensing of environmental remediation costs.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 769. COMBINED EMPLOYMENT TAX REPORTING DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of the Treasury shall provide for a demonstration project to

assess the feasibility and desirability of expanding combined Federal and State tax reporting.

(b) DESCRIPTION OF DEMONSTRATION PROJECT.—The demonstration project under subsection (a) shall be—

(1) carried out between the Internal Revenue Service and the State of Montana for a period ending with the date which is 5 years after the date of the enactment of this Act,

(2) limited to the reporting of employment taxes, and

(3) limited to the disclosure of the taxpayer identity (as defined in section 6103(b)(6) of such Code) and the signature of the taxpayer.

Such identity and signature may be disclosed notwithstanding section 6103 of the Internal Revenue Code of 1986.

SEC. 770. INCREASED MAXIMUM CAPITAL EXPENDITURE LIMIT FOR QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (A) of section 144(a)(4) (relating to $10,000,000 limit in certain cases) is amended by adding at the end the following new flush sentence:

''Capital expenditures which would (but for this sentence) be taken into account under clause (ii) shall be taken into account only to the extent such expenditures exceed $10,000,000.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to—

(1) obligations issued after December 31, 1997, and

(2) capital expenditures made after such date with respect to obligations issued on or before such date.

SEC. 771. EXTENSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

Paragraph (3) of section 45(c) is amended by striking ''July 1, 1999'' and inserting ''July 1, 2001''.

SEC. 772. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION NOT TO APPLY TO MARGINAL PRODUCTION.

(a) IN GENERAL.—Paragraph (6) of section 613A(c) is amended by adding at the end the following new subparagraph:

''(H) EXEMPTION FROM TAXABLE INCOME LIMIT WHERE REFERENCE PRICE BELOW $14.—The second sentence of subsection (a) of section 613 shall not apply to so much of the allowance for depletion as is determined under subparagraph (A) for any taxable year beginning in a calendar year for which the reference price (as defined in section 29(d)(2)(C)) is below $14.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 773. CLARIFICATION OF TREATMENT OF CERTAIN RECEIVABLES PURCHASED BY COOPERATIVE HOSPITAL SERVICE ORGANIZATIONS.

(a) IN GENERAL.—Subparagraph (A) of section 501(e)(1) is amended by inserting ''(including the purchase of patron accounts receivable on a recourse basis)'' after ''billing and collection''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

SEC. 774. EXCEPTION FOR BONDS GUARANTEED BY FEDERAL HOME LOAN BANK BOARD FROM RESTRICTION ON FEDERAL GUARANTEE OF BONDS.

(a) IN GENERAL.—Clause (i) of section 149(b)(3)(A) is amended by striking ''or the Government National Mortgage Association'' and inserting ''the Government National Mortgage Association, or the Federal Home Loan Bank Board''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

SEC. 775. INCREASED PERIOD FOR DEDUCTION FOR TRAVELING EXPENSES WHILE WORKING AWAY FROM HOME.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by inserting ''subject to subsection (o),'' before ''traveling expenses'', and

(B) by striking the last sentence, and

(2) by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) EXPENSES WHILE AWAY FROM HOME.—For purposes of subsection (a)(2)—

''(1) IN GENERAL.—A taxpayer shall not be treated as being temporarily away from home during any period of employment if such period exceeds 1 year.

''(2) SPECIAL RULES FOR CONSTRUCTION PROJECTS.—

''(A) 18-MONTH PERIOD FOR CERTAIN PROJECTS.—If—

''(i) the employment described in paragraph (1) is in connection with an identifiable construction project with a completion date that is reasonably expected to occur within 5 years after the starting date of such project, and

''(ii) the taxpayer continues to maintain a household as his principal residence and incur duplicative expenses at such residence,

paragraph (1) shall be applied by substituting '18 months' for '1 year'.

''(B) 2-YEAR PERIOD FOR PROJECTS IN AREAS LACKING FAMILY SUPPORT INFRASTRUCTURE.—If the employment described in paragraph (1) is in connection with an identifiable construction project described in subparagraph (A) which is located in an area which lacks adequate housing, educational, medical, or other facilities necessary for families, paragraph (1) shall be applied by substituting '2 years' for '1 year'.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 1997.

SEC. 776. CHARITABLE CONTRIBUTION DEDUCTION FOR CERTAIN EXPENSES INCURRED IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE WHALING.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) EXPENSES PAID BY CERTAIN WHALING CAPTAINS IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE WHALING.—

''(1) IN GENERAL.—In the case of an individual who is recognized by the Alaska Eskimo Whaling Commission as a whaling captain charged with the responsibility of maintaining and carrying out sanctioned whaling activities and who engages in such activities during the taxable year, the amount described in paragraph (2) (to the extent such amount does not exceed $7,500 for the taxable year) shall be treated for purposes of this section as a charitable contribution.

''(2) AMOUNT DESCRIBED.—The amount described in this paragraph is the aggregate of the reasonable and necessary whaling expenses paid by the taxpayer during the taxable year in carrying out sanctioned whaling activities. For purposes of the preceding sentence, the term 'whaling expenses' includes expenses for—

''(A) the acquisition and maintenance of whaling boats, weapons, and gear used in sanctioned whaling activities,

''(B) the supplying of food for the crew and other provisions for carrying out such activities, and

''(C) storage and distribution of the catch from such activities.

''(3) SANCTIONED WHALING ACTIVITIES.—For purposes of this subsection, the term 'sanctioned whaling activities' means subsistence bowhead whale hunting activities conducted pursuant to the management plan of the Alaska Eskimo Whaling Commission.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 777. MODIFICATION TO ELIGIBILITY CRITERIA FOR DESIGNATION OF FUTURE ENTERPRISE ZONES IN ALASKA OR HAWAII.

Section 1392 (relating to eligibility criteria) is amended by adding at the end the following new subsection:

''(d) SPECIAL ELIGIBILITY FOR NOMINATED AREAS LOCATED IN ALASKA OR HAWAII.—A nominated area in Alaska or Hawaii shall be treated as meeting the requirements of paragraphs (2), (3), and (4) of subsection (a) if for each census tract or block group within such area 20 percent or more of the families have income which is 50 percent or less of the statewide median family income (as determined under section 143).''.

SEC. 778. CLARIFICATION OF DE MINIMIS FRINGE BENEFIT RULES TO NO-CHARGE EMPLOYEE MEALS.

(a) IN GENERAL.—Paragraph (2) of section 132(e) (defining de minimis fringe) is amended by adding at the end the following new sentence: ''For purposes of subparagraph (B), an employee entitled under section 119 to exclude the value of a meal provided at such facility shall be treated as having paid an amount for such meal equal to the direct operating costs of the facility attributable to such meal.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 779. CLARIFICATION OF STANDARD TO BE USED IN DETERMINING EMPLOYMENT TAX STATUS OF SECURITIES BROKERS.

(a) IN GENERAL.—In determining for purposes of chapter 1 of the Internal Revenue Code of 1986 whether a registered representative of a securities broker-dealer is an employee (as defined in section 3121(d) of the Internal Revenue Code of 1986), no weight shall be given to instructions from the service recipient which are imposed only in compliance with investor protection standards imposed by the Federal Government, any State government, or a governing body pursuant to a delegation by a Federal or State agency.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to services performed after December 31, 1997.

SEC. 780. SENSE OF THE SENATE REGARDING REFORM OF THE INTERNAL REVENUE CODE OF 1986.

(a) FINDINGS.—The Senate finds that—

(1) the Internal Revenue Code of 1986 (''tax code'') is unnecessarily complex, having grown from 14 pages at its inception to 3,458 pages by 1995;

(2) this complexity resulted in taxpayers spending about 5,300,000,000 hours and $225,000,000,000 trying to comply with the tax code in 1996;

(3) the current congressional budgetary process is weighted too heavily toward tax increases, as evidenced by the fact that since 1954 there have been 27 major bills enacted that increased Federal income taxes and only 9 bills that decreased Federal income taxes, 3 of which were de minimis decreases;

(4) the tax burden on working families has reached an unsustainable level, as evidenced by the fact that in 1948 the average American family with children paid only 4.3 percent of its income to the Federal Government in direct taxes and today the average family pays about 25 percent;

(5) the tax code unfairly penalizes saving and investment by double taxing these activities while only taxing income used for consumption once, and as a result the United States has one of the lowest saving rates, at 4.7 percent, in the industrialized world;

(6) the tax code stifles economic growth by discouraging work and capital formation through excessively high tax rates;

(7) Congress and the President have found it necessary, on 2 separate occasions, to enact laws to protect taxpayers from the abuses of the

Internal Revenue Service and a third bill has been introduced in the one hundred fifth Congress; and

(8) the complexity of the tax code has increased the number of Internal Revenue Service employees responsible for administering the tax laws to 110,000 and this costs the taxpayers $9,800,000,000 each year.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Internal Revenue Code of 1986 needs broad-based reform; and

(2) the President should submit to Congress a comprehensive proposal to reform the Internal Revenue Code of 1986.

SEC. 781. SENSE OF THE SENATE REGARDING TAX TREATMENT OF STOCK OPTIONS.

(a) FINDINGS.—The Senate finds that—

(1) currently businesses can deduct the value of stock options as a business expense on their income tax returns, even though the stock options are not treated as an expense on the books of those same businesses; and

(2) stock options are the only form of compensation that is treated in this way.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Finance of the Senate should hold hearings on the tax treatment of stock options.

SEC. 782. SENSE OF THE SENATE ON ESTATE TAXES.

(a) FINDINGS.—The Senate finds that whereas—

(1) the Federal estate tax punishes hard working small business owners and discourages savings and growth;

(2) the Federal estate tax imposes an unfair economic burden on small businesses and reduces their ability to survive and compete with large corporations; and

(3) a reduction in Federal estate taxes for family-owned farms and enterprises will help to prevent the liquidation of small businesses that strengthen American communities by providing jobs and security.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the estate tax relief provided in this bill is an important step that will enable more family-owned farms and small businesses to survive and continue to provide economic security and job creation in American communities; and

(2) Congress should eliminate the Federal estate tax liability for family-owned businesses by the end of 2002 on a deficit-neutral basis.

SEC. 783. QUALIFIED GAMES OF CHANCE.

(a) IN GENERAL.—The term ''unrelated trade or business'' does not include the activity of qualified games of chance.

(b) QUALIFIED GAMES OF CHANCE.—For purposes of this subsection, the term ''qualified games of chance'' means any game of chance, other than provided in subsection (f), conducted by an organization if—

(1) such organization is licensed pursuant to State law to conduct such game;

(2) only organizations which are organized as nonprofit corporations or are exempt from tax under section 501(a) may be so licensed to conduct such game within the State; and

(3) the conduct of such game does not violate State or local law.

SEC. 784. SURVIVOR BENEFITS FOR PUBLIC SAFETY OFFICERS KILLED IN THE LINE OF DUTY.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

''SEC. 138. SURVIVOR BENEFITS ATTRIBUTABLE TO SERVICE BY A PUBLIC SAFETY OFFICER WHO IS KILLED IN THE LINE OF DUTY.

''(a) IN GENERAL.—Gross income shall not include any amount paid as a survivor annuity on account of the death of a public safety officer (as such term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) killed in the line of duty—

''(1) if such annuity is provided under a governmental plan which meets the requirements of section 401(1) to the spouse (or a former spouse) of the public safety officer or to a child of such officer; and

''(2) to the extent such annuity is attributable to such officer's service as a public safety officer.

''(b) EXCEPTIONS.—

''(1) IN GENERAL.—Subsection (a) shall not apply with respect to the death of any public safety officer if—

''(A) the death was caused by the intentional misconduct of the officer or by such officer's intention to bring about such officer's death;

''(B) the officer was voluntarily intoxicated (as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) at the time of death; or

''(C) the officer was performing such officer's duties in a grossly negligent manner at the time of death.

''(2) EXCEPTION FOR BENEFITS PAID TO CERTAIN INDIVIDUALS.—Subsection (a) shall not apply to any payment to an individual whose actions were a substantial contributing factor to the death of the officer.''.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received in taxable years beginning after December 31, 1996, with respect to individuals dying after such date.

SEC. 785. TREATMENT OF CERTAIN DISABILITY BENEFITS RECEIVED BY FORMER POLICE OFFICERS OR FIREFIGHTERS.

(a) GENERAL RULE.—For purposes of determining whether any amount to which this section applies is excludable from gross income under section 104(a)(1) of the Internal Revenue Code of 1986, the following conditions shall be treated as personal injuries or sickness in the course of employment:

(1) Heart disease.

(2) Hypertension.

(b) AMOUNTS TO WHICH SECTION APPLIES.—This section shall apply to any amount—

(1) which is payable—

(A) to an individual (or to the survivors of an individual) who was a full-time employee of any police department or fire department which is organized and operated by a State, by any political subdivision thereof, or by any agency or instrumentality of a State or political subdivision thereof, and

(B) under a State law (as in existence on July 1, 1992) which irrebuttably presumed that heart disease and hypertension are work-related illnesses but only for employees separating from service before such date; and

(2) which is received in calendar year 1989, 1990, or 1991.

For purposes of the preceding sentence, the term ''State'' includes the District of Columbia.

(c) WAIVER OF STATUTE OF LIMITATIONS.—If, on the date of the enactment of this Act (or at any time within the 1-year period beginning on such date of enactment) credit or refund of any overpayment of tax resulting from the provisions of this section is barred by any law or rule of law, credit or refund of such overpayment shall, nevertheless, be allowed or made if claim therefore is filed before the date 1 year after such date of enactment.

SEC. 786. REMOVAL OF DOLLAR LIMITATION ON BENEFIT PAYMENTS FROM A DEFINED BENEFIT PLAN MAINTAINED FOR CERTAIN POLICE AND FIRE EMPLOYEES.

(a) IN GENERAL.—Subparagraph (G) of section 415(b)(2) of the Internal Revenue Code of 1986 is amended by striking ''participant—'' and all that follows and inserting ''participant, subparagraphs (C) and (D) of this paragraph and subparagraph (B) of paragraph (1) shall not apply.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1996.

SEC. 787. DEBATE ON A RECONCILIATION BILL.

Section 310(e)(2) of the Congressional Budget Act of 1974 is amended to read as follows:

''(2) For purposes of consideration of any reconciliation bill reported under subsection (b)—

''(A) debate, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 30 hours;

''(B) time on the bill may only be yielded back by consent and a motion to further limit debate shall be debatable with debate limited to ½ hour equally divided;

''(C) time on amendments shall be limited to 30 minutes to be equally divided in the usual form and on any second degree amendment or motion to 20 minutes to be equally divided in the usual form, except that after the 15th hour of consideration of a bill, time on all amendments or motions shall be limited to 20 minutes;

''(D) no first degree amendment may be proposed after the 15th hour of consideration of a bill unless it has been submitted to the Journal Clerk prior to the expiration of the 15th hour;

''(E) no second degree amendment may be proposed after the 20th hour of consideration of a bill unless it has been submitted to the Journal Clerk prior to the expiration of the 20th hour; and

''(F) after no more than thirty hours of consideration of the measure, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins.''.

SEC. 788. EXCLUSION FROM INCOME OF SEVERANCE PAYMENT AMOUNTS; TIME PERIODS FOR CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.

(a) EXCLUSION FROM INCOME OF SEVERANCE PAYMENT AMOUNTS.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

''SEC. 138. SEVERANCE PAYMENTS.

''(a) IN GENERAL.—In the case of an individual, gross income shall not include any qualified severance payment.

''(b) LIMITATION.—The amount to which the exclusion under subsection (a) applies shall not exceed $2,000 with respect to any separation from employment.

''(c) QUALIFIED SEVERANCE PAYMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified severance payment' means any payment received by an individual if—

''(A) such payment was paid by such individual's employer on account of such individual's separation from employment,

''(B) such separation was in connection with a reduction in the work force of the employer, and

''(C) such individual does not attain employment within 6 months of the date of such separation in which the amount of compensation is equal to or greater than 95 percent of the amount of compensation for the employment that is related to such payment.

''(2) LIMITATION.—Such term shall not include any payment received by an individual if the aggregate payments received with respect to the separation from employment exceed $125,000.''.

(b) TIME PERIODS FOR CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.—Section 39(a) (relating to unused credits) is amended—

(1) in paragraph (1), by striking ''3'' each place it appears and inserting ''1'' and by striking ''15'' each place it appears and inserting ''20''; and

(2) in paragraph (2), by striking ''18'' each place it appears and inserting ''22'' and by striking ''17'' each place it appears and inserting ''21''.

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 138 and inserting the following new items:

''Sec. 138. Severance payments.

''Sec. 139. Cross references to other Acts.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to taxable years beginning after December 31, 1997, and before July 1, 2002.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to the carryback and carryforward of credits arising in taxable years beginning after December 31, 1997.

SEC. 789. CURRENT REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.

(a) IN GENERAL.—Subsection (c) of section 10632 of the Revenue Act of 1987 (relating to bonds issued by Indian tribal governments) is amended by adding at the end the following new sentence: ''The amendments made by this section shall not apply to any obligation issued after such date if—

''(1) such obligation is issued (or is part of a series of obligations issued) to refund an obligation issued on or before such date,

''(2) the average maturity date of the issue of which the refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue,

''(3) the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation, and

''(4) the net proceeds of the refunding obligation are used to redeem the refunded obligation not later than 90 days after the date of the issuance of the refunding obligation.

For purposes of paragraph (2), average maturity shall be determined in accordance with section 147(b)(2)(A) of the Internal Revenue Code of 1986.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to refunding obligations issued after the date of the enactment of this Act.

SEC. 790. SPECIAL RULE FOR THRIFTS WHICH BECOME LARGE BANKS.

(a) IN GENERAL.—Section 593(g)(2) (defining applicable excess reserves) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR THRIFTS WHICH BECAME LARGE BANKS IN 1995.—

''(i) IN GENERAL.—In the case of a bank (as defined in section 581) which became a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1994, the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before January 1, 1995, if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A).

''(ii) APPLICATION OF CUT-OFF METHOD; ETC.—In the case of a taxpayer to which this subparagraph applies—

''(I) paragraph (5)(B) shall apply, and

''(II) this subparagraph shall not apply in determining the amount taken into account by the taxpayer under subparagraph (A)(ii) for purposes of paragraphs (5) and (6) or subsection (e)(1).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 1616 of the Small Business Job Protection Act of 1996.

SEC. 791. SENSE OF THE SENATE REGARDING MIDDLE-CLASS TAXPAYERS BENEFITING FROM TAX CUTS.

(a) FINDINGS.—The Senate finds that—

(1) Congress has not provided a genuine tax cut for America's middle-class families since 1981;

(2) President Clinton promised middle-class tax cuts in 1992;

(3) President Clinton raised taxes by $240,000,000,000 in 1993;

(4) President Clinton vetoed middle-class tax cuts in 1995;

(5) the middle-class American worker had to work until May 9 in order to earn enough money to pay all Federal, State, and local taxes in 1997;

(6) the Joint Economic Committee reports that real total Government taxes per household in 1994 totaled $18,600;

(7) more than 70 percent of the tax cuts in both the House of Representatives and the Senate tax relief bills will go to Americans earning less than $75,000 annually;

(8) the Joint Economic Committee estimates that a family of 4 earning $30,000 will receive 53 percent of the tax relief under the reconciliation bill;

(9) the earned income tax credit was already expanded in President Clinton's 1993 tax bill;

(10) the fiscal year 1998 budget resolution does not make the $500-per-child tax credit refundable; and

(11) those who receive the earned income tax credit do not pay Federal income taxes but receive a substantial cash transfer from the Federal Government in the form of refund checks above and beyond income tax rebates.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that America's middle-class taxpayers shoulder the biggest tax burden and that only those who pay Federal income taxes should benefit from the Federal income tax cuts contained in the Revenue Reconciliation Act of 1997.

SEC. 792. AVERAGING OF FARM INCOME OVER 3 YEARS.

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1986 (relating to taxable year for which items of gross income included) is amended by adding the following new section:

''SEC. 460A. AVERAGING OF FARM INCOME.

''(a) IN GENERAL.—At the election of a taxpayer engaged in a farming business, the tax imposed by section 1 for such taxable year shall be equal to the sum of—

''(1) a tax computed under such section on taxable income reduced by elected farm income, plus

''(2) the increase in tax which would result if taxable income for the 3 prior taxable years were increased by the elected farm income.

''(b) DEFINITIONS.—In this section—

''(1) ELECTED FARM INCOME.—

''(A) IN GENERAL.—The term 'elected farm income' means so much of the taxable income for the taxable year—

''(i) which is attributable to any farming business; and

''(ii) which is specified in the election under subsection (a).

''(B) TREATMENT OF GAINS.—For purposes of subparagraph (A), gain from the sale or other disposition of property (other than land) regularly used by the taxpayer in a farming business for a substantial period shall be treated as attributable to a farming business.

''(2) FARMING BUSINESS.—The term 'farming business' has the meaning given such term by section 263A(e)(4).''.

(b) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by adding at the end the following new item:

''Sec. 460A. Averaging of farm income.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act and before January 1, 2001.

TITLE VIII—REVENUES

Subtitle A—Financial Products

SEC. 801. CONSTRUCTIVE SALES TREATMENT FOR APPRECIATED FINANCIAL POSITIONS.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 is amended by adding at the end the following new section:

''SEC. 1259. CONSTRUCTIVE SALES TREATMENT FOR APPRECIATED FINANCIAL POSITIONS.

''(a) IN GENERAL.—If there is a constructive sale of an appreciated financial position—

''(1) the taxpayer shall recognize gain as if such position were sold, assigned, or otherwise terminated at its fair market value on the date of such constructive sale (and any gain shall be taken into account for the taxable year which includes such date), and

''(2) for purposes of applying this title for periods after the constructive sale—

''(A) proper adjustment shall be made in the amount of any gain or loss subsequently realized with respect to such position for any gain taken into account by reason of paragraph (1), and

''(B) the holding period of such position shall be determined as if such position were originally acquired on the date of such constructive sale.

''(b) APPRECIATED FINANCIAL POSITION.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'appreciated financial position' means any position with respect to any stock, debt instrument, or partnership interest if there would be gain were such position sold, assigned, or otherwise terminated at its fair market value.

''(2) EXCEPTIONS.—The term 'appreciated financial position' shall not include—

''(A) any position with respect to debt if—

''(i) the interest payments (or other similar amounts) with respect to such debt meet the requirements of clause (i) of section 860G(a)(1)(B), and

''(ii) such debt is not convertible (directly or indirectly) into stock of the issuer or any related person, and

''(B) any position which is marked to market under any provision of this title or the regulations thereunder.

''(3) POSITION.—The term 'position' means an interest, including a futures or forward contract, short sale, or option.

''(c) CONSTRUCTIVE SALE.—For purposes of this section—

''(1) IN GENERAL.—A taxpayer shall be treated as having made a constructive sale of an appreciated financial position if the taxpayer (or a related person)—

''(A) enters into a short sale of the same or substantially identical property,

''(B) enters into an offsetting notional principal contract with respect to the same or substantially identical property,

''(C) enters into a futures or forward contract to deliver the same or substantially identical property,

''(D) in the case of an appreciated financial position that is a short sale or a contract described in subparagraph (B) or (C) with respect to any property, acquires the same or substantially identical property, or

''(E) to the extent prescribed by the Secretary in regulations, enters into 1 or more other transactions (or acquires 1 or more positions) that have substantially the same effect as a transaction described in any of the preceding subparagraphs.

''(2) EXCEPTION FOR SALES OF NONPUBLICLY TRADED PROPERTY.—The term 'constructive sale' shall not include any contract for sale of any stock, debt instrument, or partnership interest which is not a marketable security (as defined in section 453(f)) if the contract settles within 1 year after the date such contract is entered into.

''(3) EXCEPTION FOR CERTAIN CLOSED TRANSACTIONS.—In applying this section, there shall

be disregarded any transaction (which would otherwise be treated as a constructive sale) during the taxable year if—

''(A) such transaction is closed before the end of the 30th day after the close of such taxable year, and

''(B) in the case of a transaction which is closed during the 90-day period ending on such 30th day—

''(i) the taxpayer holds the appreciated financial position throughout the 60-day period beginning on the date such transaction is closed, and

''(ii) at no time during such 60-day period is the taxpayer's risk of loss with respect to such position reduced by reason of a circumstance which would be described in section 246(c)(4) if references to stock included references to such position.

If a position with respect to a transaction which is closed during the 90-day period as described in subparagraph (B) is reestablished, then such transaction shall be disregarded in applying this section if the reestablished position is closed during such 90-day period in a transaction which meets the requirements of subparagraph (B).

''(4) RELATED PERSON.—A person is related to another person with respect to a transaction if—

''(A) the relationship is described in section 267 or 707(b), and

''(B) such transaction is entered into with a view toward avoiding the purposes of this section.

''(d) OTHER DEFINITIONS.—For purposes of this section—

''(1) FORWARD CONTRACT.—The term 'forward contract' means a contract to deliver a substantially fixed amount of property for a substantially fixed price.

''(2) OFFSETTING NOTIONAL PRINCIPAL CONTRACT.—The term 'offsetting notional principal contract' means, with respect to any property, an agreement which includes—

''(A) a requirement to pay (or provide credit for) all or substantially all of the investment yield (including appreciation) on such property for a specified period, and

''(B) a right to be reimbursed for (or receive credit for) all or substantially all of any decline in the value of such property.

''(e) SPECIAL RULES.—

''(1) TREATMENT OF SUBSEQUENT SALE OF POSITION WHICH WAS DEEMED SOLD.—If—

''(A) there is a constructive sale of any appreciated financial position,

''(B) such position is subsequently disposed of, and

''(C) at the time of such disposition, the transaction resulting in the constructive sale of such position is open with respect to the taxpayer or any related person,

solely for purposes of determining whether the taxpayer has entered into a constructive sale of any other appreciated financial position held by the taxpayer, the taxpayer shall be treated as entering into such transaction immediately after such disposition. For purposes of the preceding sentence, an assignment or other termination shall be treated as a disposition.

''(2) CERTAIN TRUST INSTRUMENTS TREATED AS STOCK.—For purposes of this section, an interest in a trust which is actively traded (within the meaning of section 1092(d)(1)) shall be treated as stock.

''(3) MULTIPLE POSITIONS IN PROPERTY.—If a taxpayer holds multiple positions in property, the determination of whether a specific transaction is a constructive sale and, if so, which appreciated financial position is deemed sold shall be made in the same manner as actual sales.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) ELECTION OF MARK TO MARKET FOR SECURITIES TRADERS AND FOR TRADERS AND DEALERS IN COMMODITIES.—Subsection (d) of section 475 (relating to mark to market accounting method for dealers in securities) is amended by adding at the end the following new paragraph:

''(4) ELECTION OF MARK TO MARKET FOR SECURITIES TRADERS AND FOR TRADERS AND DEALERS IN COMMODITIES.—

''(A) IN GENERAL.—In the case of a person—

''(i) who is engaged in a trade or business to which this paragraph applies, and

''(ii) who elects to be treated as a dealer in securities for purposes of this section with respect to such trade or business,

subsections (a), (b)(3), (c)(3), and (e) and the preceding provisions of this subsection (or, in the case of a dealer in commodities, this section) shall apply to all commodities and securities held by such person in any trade or business with respect to which such election is in effect in the same manner as if such person were a dealer in securities and all references to securities included references to commodities.

''(B) APPLICATION OF PARAGRAPH.—This paragraph shall apply to any active trade or business—

''(i) as a trader in securities, or

''(ii) as a trader or dealer in commodities.

''(C) EXCEPTION FOR CERTAIN HOLDINGS OF TRADERS.—In the case of a trader in securities or commodities, subsection (a) shall not apply to any security or commodity (to which subsection (a) would otherwise apply solely by reason of this paragraph) if such security or commodity is clearly identified in the trader's records (before the close of the day applicable under subsection (b)(2)) as being held other than in a trade or business to which the election under subparagraph (A) is in effect. A security or commodity so identified shall be treated as described in subsection (b)(1).

''(D) COMMODITY.—For purposes of this paragraph, the term 'commodities' includes only commodities of a kind customarily dealt in on an organized commodity exchange.

''(E) ELECTION.—An election under this paragraph may be made separately for each trade or business and without the consent of the Secretary. Such an election, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.''.

(c) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end the following new item:

''Sec. 1259. Constructive sales treatment for appreciated financial positions.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to any constructive sale after June 8, 1997.

(2) EXCEPTION FOR SALES OF POSITIONS, ETC. HELD BEFORE JUNE 9, 1997.—A constructive sale before June 9, 1997, and the property to which the position involved in the transaction relates, shall not be taken into account in determining whether any other constructive sale after June 8, 1997, has occurred if, within before the close of the 30-day period beginning on the date of the enactment of this Act, such position and property are clearly identified in the taxpayer's records as offsetting. The preceding sentence shall cease to apply as of the date the taxpayer ceases to hold such position or property.

(3) SPECIAL RULE.—In the case of a decedent dying after June 8, 1997, if—

(A) there was a constructive sale on or before such date of any appreciated financial position,

(B) the transaction resulting in such constructive sale of such position remains open (with respect to the decedent or any related person) for not less than 2 years after the date of such transaction (whether such period is before or after June 8, 1997), and

(C) such transaction is not closed within the 30-day period beginning on the date of the enactment of this Act,

then, for purposes of such Code, such position (and any property related thereto, as determined under the principles of section 1259(d)(1) of such Code (as so added)) shall be treated as property constituting rights to receive an item of income in respect of a decedent under section 691 of such Code.

(4) ELECTION OF SECURITIES TRADERS, AND FOR TRADERS AND DEALERS IN COMMODITIES, TO BE TREATED AS DEALERS IN SECURITIES.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years ending after the date of the enactment of this Act.

(B) 4-YEAR SPREAD OF ADJUSTMENTS.—In the case of a taxpayer who elects under section 475(d)(4) of the Internal Revenue Code of 1986 (as added by this section) to change its method of accounting for its first taxable year ending after the date of the enactment of this Act, 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 4-taxable year period beginning with such first taxable year.

SEC. 802. LIMITATION ON EXCEPTION FOR INVESTMENT COMPANIES UNDER SECTION 351.

(a) IN GENERAL.—Paragraph (1) of section 351(e) (relating to exceptions) is amended by adding at the end the following: ''For purposes of the preceding sentence, the determination of whether a company is an investment company shall be made—

''(A) by taking into account all stock and securities held by the company, and

''(B) by treating as securities—

''(i) money,

''(ii) stocks and other equity interests in a corporation, evidences of indebtedness, options, forward or futures contracts, notional principal contracts and derivatives,

''(iii) any foreign currency,

''(iv) any interest in a real estate investment trust, a common trust fund, a regulated investment company, a publicly-traded partnership (as defined in section 7704(b)) or any other equity interest (other than in a corporation) which pursuant to its terms or any other arrangement is readily convertible into, or exchangeable for, any asset described in any preceding clause, this clause or clause (v) or (viii),

''(v) except to the extent provided in regulations prescribed by the Secretary, any interest in a precious metal, unless such metal is used or held in the active conduct of a trade or business after the contribution,

''(vi) except as otherwise provided in regulations prescribed by the Secretary, interests in any entity if substantially all of the assets of such entity consist (directly or indirectly) of any assets described in any preceding clause or clause (viii),

''(vii) to the extent provided in regulations prescribed by the Secretary, any interest in any entity not described in clause (vi), but only to the extent of the value of such interest that is attributable to assets listed in clauses (i) through (v) or clause (viii), or

''(viii) any other asset specified in regulations prescribed by the Secretary.

The Secretary may prescribe regulations that, under appropriate circumstances, treat any asset described in clauses (i) through (v) as not so listed.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to transfers after June 8, 1997, in taxable years ending after such date.

(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any transfer pursuant to a written binding contract in effect on June 8, 1997, that provides for the transfer of a fixed amount of property, and at all times thereafter before such transfer.

SEC. 803. GAINS AND LOSSES FROM CERTAIN TERMINATIONS WITH RESPECT TO PROPERTY.

(a) APPLICATION OF CAPITAL TREATMENT TO PROPERTY OTHER THAN PERSONAL PROPERTY.—

(1) IN GENERAL.—Paragraph (1) of section 1234A (relating to gains and losses from certain terminations) is amended by striking ''personal property (as defined in section 1092(d)(1))'' and inserting ''property''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to terminations more than 30 days after the date of the enactment of this Act.

(b) APPLICATION OF CAPITAL TREATMENT, ETC. TO OBLIGATIONS ISSUED BY NATURAL PERSONS.—

(1) IN GENERAL.—Section 1271(b) is amended to read as follows:

''(b) EXCEPTION FOR CERTAIN OBLIGATIONS.—

''(1) IN GENERAL.—This section shall not apply to—

''(A) any obligation issued by a natural person before June 9, 1997, and

''(B) any obligation issued before July 2, 1982, by an issuer which is not a corporation and is not a government or political subdivision thereof.

''(2) TERMINATION.—Paragraph (1) shall not apply to any obligation acquired after June 8, 1997, unless the basis of the obligation in the hands of the acquirer is determined solely by reference to the adjusted basis of the obligation in the hands of the person from whom acquired.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act.

Subtitle B—Corporate Organizations and Reorganizations

SEC. 811. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) (relating to corporate shareholder's recognition of gain attributable to nontaxed portion of extraordinary dividends) is amended to read as follows:

''(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received.''.

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

''(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

''(A) REDEMPTIONS.—In the case of any redemption of stock—

''(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

''(ii) which is not pro rata as to all shareholders, or

''(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

''(B) REORGANIZATIONS, ETC.—An exchange described in section 356 which is treated as a dividend shall be treated as a redemption of stock for purposes of applying subparagraph (A).''.

(c) TIME FOR REDUCTION.—Paragraph (1) of section 1059(d) is amended to read as follows:

''(1) TIME FOR REDUCTION.—Any reduction in basis under subsection (a)(1) shall be treated as occurring at the beginning of the ex-dividend date of the extraordinary dividend to which the reduction relates.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—

(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution, or

(B) a tender offer outstanding on May 3, 1995.

(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting ''September 13, 1995'' for ''May 3, 1995''.

SEC. 812. APPLICATION OF SECTION 355 TO DISTRIBUTIONS FOLLOWED BY ACQUISITIONS AND TO INTRAGROUP TRANSACTIONS.

(a) DISTRIBUTIONS FOLLOWED BY ACQUISITIONS.—Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

''(e) RECOGNITION OF GAIN WHERE CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES ARE FOLLOWED BY ACQUISITION.—

''(1) GENERAL RULE.—If there is a distribution to which this subsection applies, the following rules shall apply:

''(A) ACQUISITION OF CONTROLLED CORPORATION.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to any controlled corporation, any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

''(B) ACQUISITION OF DISTRIBUTING CORPORATION.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to the distributing corporation, the controlled corporation shall recognize gain in an amount equal to the amount of net gain which would be recognized if all the assets of the distributing corporation (immediately after the distribution) were sold (at such time) for fair market value. Any gain recognized under the preceding sentence shall be treated as long-term capital gain and shall be taken into account for the taxable year which includes the day after the date of such distribution.

''(2) DISTRIBUTIONS TO WHICH SUBSECTION APPLIES.—

''(A) IN GENERAL.—This subsection shall apply to any distribution—

''(i) to which this section (or so much of section 356 as relates to this section) applies, and

''(ii) which is part of a plan (or series of related transactions) pursuant to which 1 or more persons acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation.

''(B) PLAN PRESUMED TO EXIST IN CERTAIN CASES.—If 1 or more persons acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation during the 4-year period beginning on the date which is 2 years before the date of the distribution, such acquisition shall be treated as pursuant to a plan described in subparagraph (A)(ii) unless it is established that the distribution and the acquisition are not pursuant to a plan or series of related transactions.

''(C) COORDINATION WITH SUBSECTION (d).—This subsection shall not apply to any distribution to which subsection (d) applies.

''(3) SPECIAL RULES RELATING TO ACQUISITIONS.—

''(A) CERTAIN ACQUISITIONS NOT TAKEN INTO ACCOUNT.—Except as provided in regulations, the following acquisitions shall not be treated as described in paragraph (2)(A)(ii):

''(i) The acquisition of stock in any controlled corporation by the distributing corporation.

''(ii) The acquisition by a person of stock in any controlled corporation by reason of holding stock or securities in the distributing corporation.

''(iii) The acquisition by a person of stock in any successor corporation of the distributing corporation or any controlled corporation by reason of holding stock or securities in such distributing or controlled corporation.

''(iv) The acquisition of stock in a corporation if shareholders owning directly or indirectly stock possessing—

''(I) more than 50 percent of the total combined voting power of all classes of stock entitled to vote, and

''(II) more than 50 percent of the total value of shares of all classes of stock,

in the distributing corporation or any controlled corporation before such acquisition own indirectly stock possessing such vote and value in such distributing or controlled corporation after such acquisition.

This subparagraph shall not apply to any acquisition if the stock held before the acquisition was acquired pursuant to a plan (or series of related transactions) described in subparagraph (A)(ii).

''(B) ASSET ACQUISITIONS.—Except as provided in regulations, for purposes of this subsection, if the assets of the distributing corporation or any controlled corporation are acquired by a successor corporation in a transaction described in subparagraph (A), (C), or (D) of section 368(a)(1) or any other transaction specified in regulations by the Secretary, the shareholders (immediately before the acquisition) of the corporation acquiring such assets shall be treated as acquiring stock in the corporation from which the assets were acquired.

''(4) DEFINITION AND SPECIAL RULES.—For purposes of this subsection—

''(A) 50-PERCENT OR GREATER INTEREST.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

''(B) DISTRIBUTIONS IN TITLE 11 OR SIMILAR CASE.—Paragraph (1) shall not apply to any distribution made in a title 11 or similar case (as defined in section 368(a)(3)).

''(C) AGGREGATION AND ATTRIBUTION RULES.—

''(i) AGGREGATION.—The rules of paragraph (7)(A) of subsection (d) shall apply.

''(ii) ATTRIBUTION.—Section 355(d)(8)(A) shall apply in determining whether a person holds stock or securities in any corporation.

''(D) SUCCESSORS AND PREDECESSORS.—For purposes of this subsection, any reference to a controlled corporation or a distributing corporation shall include a reference to any predecessor or successor of such corporation.

''(E) STATUTE OF LIMITATIONS.—If there is an acquisition to which paragraph (1) (A) or (B) applies—

''(i) the statutory period for the assessment of any deficiency attributable to any part of the gain recognized under this subsection by reason of such acquisition shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) that such acquisition occurred, and

''(ii) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

''(A) providing for the application of this subsection where there is more than 1 controlled corporation,

''(B) treating 2 or more distributions as 1 distribution where necessary to prevent the avoidance of such purposes, and

''(C) providing for the application of rules similar to the rules of subsection (d)(6) where appropriate for purposes of paragraph (2)(B).''.

(b) SPECIAL RULES FOR CERTAIN INTRAGROUP TRANSACTIONS.—

(1) SECTION 355 NOT TO APPLY.—Section 355, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(f) SECTION NOT TO APPLY TO CERTAIN INTRAGROUP DISTRIBUTIONS.—Except as provided in regulations, this section (or so much of section 356 as relates to this section) shall not apply to the distribution of stock from 1 member of an affiliated group (as defined in section 1504(a)) to another member of such group if such distribution is part of a plan (or series of related transactions) described in subsection (e)(2)(A)(ii).''.

(2) ADJUSTMENTS TO BASIS.—Section 358 (relating to basis to distributees) is amended by adding at the end the following new subsection:

''(g) ADJUSTMENTS IN INTRAGROUP TRANSACTIONS INVOLVING SECTION 355.—In the case of an exchange to which section 355 (or so much of section 356 as relates to section 355) applies and which involves the distribution of stock from 1 member of an affiliated group (as defined in section 1504(a)) to another member of such group, the Secretary may, notwithstanding any other provision of this section, provide adjustments to the adjusted basis of any stock which—

''(1) is in a corporation which is a member of such group, and

''(2) is held by another member of such group, to appropriately reflect the proper treatment of such distribution.''.

(c) DETERMINATION OF CONTROL IN CERTAIN DIVISIVE TRANSACTIONS.—

(1) SECTION 351 TRANSACTIONS.—Section 351(c) (relating to special rule) is amended to read as follows:

''(c) SPECIAL RULES WHERE DISTRIBUTION TO SHAREHOLDERS.—In determining control for purposes of this section—

''(1) the fact that any corporate transferor distributes part or all of the stock in the corporation which it receives in the exchange to its shareholders shall not be taken into account, and

''(2) if the requirements of section 355 are met with respect to such distribution, the shareholders shall be treated as in control of such corporation immediately after the exchange if the shareholders hold (immediately after the distribution) stock possessing—

''(A) more than 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and

''(B) more than 50 percent of the total value of shares of all classes of stock of such corporation.''.

(2) D REORGANIZATIONS.—Section 368(a)(2)(H) (relating to special rule for determining whether certain transactions are qualified under paragraph (1)(D)) is amended to read as follows:

''(H) SPECIAL RULES FOR DETERMINING WHETHER CERTAIN TRANSACTIONS ARE QUALIFIED UNDER PARAGRAPH (1)(D).—For purposes of determining whether a transaction qualifies under paragraph (1)(D)—

''(i) in the case of a transaction with respect to which the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met, the term 'control' has the meaning given such term by section 304(c), and

''(ii) in the case of a transaction with respect to which the requirements of section 355 are met, the shareholders described in paragraph (1)(D) shall be treated as having control of the corporation to which the assets are transferred if such shareholders hold (immediately after the transfer) stock possessing—

''(I) more than 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and

''(II) more than 50 percent of the total value of shares of all classes of stock of such corporation.''.

(d) EFFECTIVE DATES.—

(1) SECTION 355 RULES.—The amendments made by subsections (a) and (b) shall apply to distributions after April 16, 1997.

(2) DIVISIVE TRANSACTIONS.—The amendments made by subsection (c) shall apply to transfers after the date of the enactment of this Act.

(3) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution pursuant to an acquisition described in section 355(e)(2)(A)(ii) of the Internal Revenue Code of 1986 (or, in the case of the amendments made by subsection (c), any transfer) after April 16, 1997, if such acquisition or transfer is—

(A) made pursuant to a written agreement which was (subject to customary conditions) binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

This paragraph shall not apply to any written agreement, ruling request, or public announcement or filing unless it identifies the acquirer of the distributing corporation or any controlled corporation, or the transfer or transferee, whichever is applicable.

SEC. 813. TAX TREATMENT OF REDEMPTIONS INVOLVING RELATED CORPORATIONS.

(a) STOCK PURCHASES BY RELATED CORPORATIONS.—The last sentence of section 304(a)(1) (relating to acquisition by related corporation other than subsidiary) is amended to read as follows: ''To the extent that such distribution is treated as a distribution to which section 301 applies, the transferor and the acquiring corporation shall be treated in the same manner as if the transferor had transferred the stock so acquired to the acquiring corporation in exchange for stock of the acquiring corporation in a transaction to which section 351(a) applies, and then the acquiring corporation had redeemed the stock it was treated as issuing in such transaction.''.

(b) COORDINATION WITH SECTION 1059.—Clause (iii) of section 1059(e)(1)(A), as amended by this title, is amended to read as follows:

''(iii) which would not have been treated (in whole or in part) as a dividend if—

''(I) any options had not been taken into account under section 318(a)(4), or

''(II) section 304(a) had not applied,''.

(c) SPECIAL RULE FOR ACQUISITIONS BY FOREIGN CORPORATIONS.—Section 304(b) (relating to special rules for application of subsection (a)) is amended by adding at the end the following new paragraph:

''(5) ACQUISITIONS BY FOREIGN CORPORATIONS.—

''(A) IN GENERAL.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation is a foreign corporation, the only earnings and profits taken into account under paragraph (2)(A) shall be those earnings and profits—

''(i) which are attributable (under regulations prescribed by the Secretary) to stock of the acquiring corporation owned (within the meaning of section 958(a)) by a corporation or individual which is—

''(I) a United States shareholder (within the meaning of section 951(b)) of the acquiring corporation, and

''(II) the transferor or a person who bears a relationship to the transferor described in section 267(b) or 707(b), and

''(ii) which were accumulated during the period or periods such stock was owned by such person while the acquiring corporation was a controlled foreign corporation.

''(B) APPLICATION OF SECTION 1248.—For purposes of subparagraph (A), the rules of section 1248(d) shall apply except to the extent otherwise provided by the Secretary.

''(C) REGULATIONS.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of this paragraph.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions and acquisitions after June 8, 1997.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution or acquisition after June 8, 1997, if such distribution or acquisition is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described in a public announcement or filing with the Securities and Exchange Commission on or before such date.

SEC. 814. MODIFICATION OF HOLDING PERIOD APPLICABLE TO DIVIDENDS RECEIVED DEDUCTION.

(a) IN GENERAL.—Subparagraph (A) of section 246(c)(1) is amended to read as follows:

''(A) which is held by the taxpayer for 45 days or less during the 90-day period beginning on the date which is 45 days before the date on which such share becomes ex-dividend with respect to such dividend, or''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 246(c) is amended to read as follows:

''(2) 90-DAY RULE IN THE CASE OF CERTAIN PREFERENCE DIVIDENDS.—In the case of stock having preference in dividends, if the taxpayer receives dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days, paragraph (1)(A) shall be applied—

''(A) by substituting '90 days' for '45 days' each place it appears, and

''(B) by substituting '180-day period' for '90-day period'.''.

(2) Paragraph (3) of section 246(c) is amended by adding ''and'' at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to dividends received or accrued after the 30th day after the date of the enactment of this Act.

(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply to dividends received or accrued during the 2-year period beginning on the date of the enactment of this Act if—

(A) the dividend is paid with respect to stock held by the taxpayer on June 8, 1997, and all times thereafter until the dividend is received,

(B) such stock is continuously subject to a position described in section 246(c)(4) of the Internal Revenue Code of 1986 on June 8, 1997, and all times thereafter until the dividend is received, and

(C) such stock and position are clearly identified in the taxpayer's records within 30 days after the date of the enactment of this Act.

Stock shall not be treated as meeting the requirement of subparagraph (B) if the position is sold, closed, or otherwise terminated and reestablished.

Subtitle C—Other Corporate Provisions

SEC. 821. REGISTRATION AND OTHER PROVISIONS RELATING TO CONFIDENTIAL CORPORATE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

''(d) CERTAIN CONFIDENTIAL ARRANGEMENTS TREATED AS TAX SHELTERS.—

''(1) IN GENERAL.—For purposes of this section, the term 'tax shelter' includes any entity, plan, arrangement, or transaction—

''(A) a significant purpose of the structure of which is the avoidance or evasion of Federal income tax for a direct or indirect participant which is a corporation,

''(B) which is offered to any potential participant under conditions of confidentiality, and

''(C) for which the tax shelter promoters may receive fees in excess of $100,000 in the aggregate.

''(2) CONDITIONS OF CONFIDENTIALITY.—For purposes of paragraph (1)(B), an offer is under conditions of confidentiality if—

''(A) the potential participant to whom the offer is made (or any other person acting on behalf of such participant) has an understanding or agreement with or for the benefit of any promoter of the tax shelter that such participant (or such other person) will limit disclosure of the tax shelter or any significant tax features of the tax shelter, or

''(B) any promoter of the tax shelter—

''(i) claims, knows, or has reason to know,

''(ii) knows or has reason to know that any other person (other than the potential participant) claims, or

''(iii) causes another person to claim,

that the tax shelter (or any aspect thereof) is proprietary to any person other than the potential participant or is otherwise protected from disclosure to or use by others.

For purposes of this subsection, the term 'promoter' means any person or any related person (within the meaning of section 267 or 707) who participates in the organization, management, or sale of the tax shelter.

''(3) PERSONS OTHER THAN PROMOTER REQUIRED TO REGISTER IN CERTAIN CASES.—

''(A) IN GENERAL.—If—

''(i) the requirements of subsection (a) are not met with respect to any tax shelter (as defined in paragraph (1)) by any tax shelter promoter, and

''(ii) no tax shelter promoter is a United States person,

then each United States person who discussed participation in such shelter shall register such shelter under subsection (a).

''(B) EXCEPTION.—Subparagraph (A) shall not apply to a United States person who discussed participation in a tax shelter if—

''(i) such person notified the promoter in writing (not later than the close of the 90th day after the day on which such discussions began) that such person would not participate in such shelter, and

''(ii) such person does not participate in such shelter.

''(4) OFFER TO PARTICIPATE TREATED AS OFFER FOR SALE.—For purposes of subsections (a) and (b), an offer to participate in a tax shelter (as defined in paragraph (1)) shall be treated as an offer for sale.''.

(b) PENALTY.—Subsection (a) of section 6707 (relating to failure to furnish information regarding tax shelters) is amended by adding at the end the following new paragraph:

''(3) CONFIDENTIAL ARRANGEMENTS.—

''(A) IN GENERAL.—In the case of a tax shelter (as defined in section 6111(d)), the penalty imposed under paragraph (1) shall be an amount equal to the greater of—

''(i) 50 percent of the fees paid to all promoters of the tax shelter with respect to offerings made before the date such shelter is registered under section 6111, or

''(ii) $10,000.

Clause (i) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in paragraph (1).

''(B) SPECIAL RULE FOR PARTICIPANTS REQUIRED TO REGISTER SHELTER.—In the case of a person required to register such a tax shelter by reason of section 6111(d)(3)—

''(i) such person shall be required to pay the penalty under paragraph (1) only if such person actually participated in such shelter,

''(ii) the amount of such penalty shall be determined by taking into account under subparagraph (A)(i) only the fees paid by such person, and

''(iii) such penalty shall be in addition to the penalty imposed on any other person for failing to register such shelter.''.

(c) MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT PENALTY.—

(1) RESTRICTION ON REASONABLE BASIS FOR CORPORATE UNDERSTATEMENT OF INCOME TAX.—Subparagraph (B) of section 6662(d)(2) is amended by adding at the end the following new flush sentence:

''For purposes of clause (ii)(II), in no event shall a corporation be treated as having a reasonable basis for its tax treatment of an item attributable to a multiple-party financing transaction if such treatment does not clearly reflect the income of the corporation.''.

(2) MODIFICATION TO DEFINITION OF TAX SHELTER.—Clause (iii) of section 6662(d)(2)(C) is amended by striking ''the principal purpose'' and inserting ''a significant purpose''.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6707(a) is amended by striking ''The penalty'' and inserting ''Except as provided in paragraph (3), the penalty''.

(2) Subparagraph (A) of section 6707(a)(1) is amended by striking ''paragraph (2)'' and inserting ''paragraph (2) or (3), as the case may be''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to any tax shelter (as defined in section 6111(d) of the Internal Revenue Code of 1986, as amended by this section) interests in which are offered to potential participants after the Secretary of the Treasury prescribes guidance with respect to meeting requirements added by such amendments.

(2) MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT PENALTY.—The amendments made by subsection (c) shall apply to items with respect to transactions entered into after the date of the enactment of this Act.

SEC. 822. CERTAIN PREFERRED STOCK TREATED AS BOOT.

(a) SECTION 351.—Section 351 (relating to transfer to corporation controlled by transferor) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) NONQUALIFIED PREFERRED STOCK NOT TREATED AS STOCK.—

''(1) IN GENERAL.—For purposes of subsections (a) and (b), the term 'stock' shall not include nonqualified preferred stock.

''(2) NONQUALIFIED PREFERRED STOCK.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'nonqualified preferred stock' means preferred stock if—

''(i) the holder of such stock has the right to require the issuer or a related person to redeem or purchase the stock,

''(ii) the issuer or a related person is required to redeem or purchase such stock,

''(iii) the issuer or a related person has the right to redeem or purchase the stock and, as of the issue date, it is more likely than not that such right will be exercised, or

''(iv) the dividend rate on such stock varies in whole or in part (directly or indirectly) with reference to interest rates, commodity prices, or other similar indices.

''(B) LIMITATIONS.—Clauses (i), (ii), and (iii) of subparagraph (A) shall apply only if the right or obligation referred to therein may be exercised within the 20-year period beginning on the issue date of such stock and such right or obligation is not subject to a contingency which, as of the issue date, makes remote the likelihood of the redemption or purchase.

''(C) EXCEPTIONS FOR CERTAIN RIGHTS OR OBLIGATIONS.—

''(i) IN GENERAL.—A right or obligation shall not be treated as described in clause (i), (ii), or (iii) of subparagraph (A) if—

''(I) it may be exercised only upon the death, disability, or mental incompetency of the holder, or

''(II) in the case of a right or obligation to redeem or purchase stock transferred in connection with the performance of services for the issuer or a related person (and which represents reasonable compensation), it may be exercised only upon the holder's separation from service from the issuer or a related person.

''(ii) EXCEPTION.—Clause (i)(I) shall not apply if the stock relinquished in the exchange, or the stock acquired in the exchange is in—

''(I) a corporation if any class of stock in such corporation or a related party is readily tradable on an established securities market or otherwise, or

''(II) any other corporation if such exchange is part of a transaction or series of transactions in which such corporation is to become a corporation described in subclause (I).

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) PREFERRED STOCK.—The term 'preferred stock' means stock which is limited and preferred as to dividends and does not participate (including through a conversion privilege) in corporate growth to any significant extent.

''(B) RELATED PERSON.—A person shall be treated as related to another person if they bear a relationship to such other person described in section 267(b) or 707(b).

''(4) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection and sections 354(a)(2)(C), 355(a)(3)(D), and 356(e). The Secretary may also prescribe regulations, consistent with the treatment under this subsection and such sections, for the treatment of nonqualified preferred stock under other provisions of this title.''.

(b) SECTION 354.—Paragraph (2) of section 354(a) (relating to exchanges of stock and securities in certain reorganizations) is amended by adding at the end the following new subparagraph:

''(C) NONQUALIFIED PREFERRED STOCK.—

''(i) IN GENERAL.—Nonqualified preferred stock (as defined in section 351(g)(2)) received in exchange for stock other than nonqualified preferred stock (as so defined) shall not be treated as stock or securities.

''(ii) RECAPITALIZATIONS OF FAMILY-OWNED CORPORATIONS.—

''(I) IN GENERAL.—Clause (i) shall not apply in the case of a recapitalization under section 368(a)(1)(E) of a family-owned corporation.

''(II) FAMILY-OWNED CORPORATION.—For purposes of this clause, except as provided in regulations, the term 'family-owned corporation' means any corporation which is described in clause (i) of section 447(d)(2)(C) throughout the 8-year period beginning on the date which is 5 years before the date of the recapitalization. For purposes of the preceding sentence, stock shall not be treated as owned by a family member during any period described in section 355(d)(6)(B).''.

(c) SECTION 355.—Paragraph (3) of section 355(a) is amended by adding at the end the following new subparagraph:

''(D) NONQUALIFIED PREFERRED STOCK.—Nonqualified preferred stock (as defined in section 351(g)(2)) received in a distribution with respect to stock other than nonqualified preferred stock (as so defined) shall not be treated as stock or securities.''.

(d) SECTION 356.—Section 356 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) NONQUALIFIED PREFERRED STOCK TREATED AS OTHER PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'other property' includes nonqualified preferred stock (as defined in section 351(g)(2)).

''(2) EXCEPTION.—The term 'other property' does not include nonqualified preferred stock (as so defined) to the extent that, under section 354 or 355, such preferred stock would be permitted to be received without the recognition of gain.''.

(e) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 354(a)(2) and subparagraph (C) of section 355(a)(3)(C) are each amended by inserting ''(including nonqualified preferred stock, as defined in section 351(g)(2))'' after ''stock''.

(2) Subparagraph (A) of section 354(a)(3) and subparagraph (A) of section 355(a)(4) are each amended by inserting ''nonqualified preferred stock and'' after ''including''.

(3) Section 1036 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

''(b) NONQUALIFIED PREFERRED STOCK NOT TREATED AS STOCK.—For purposes of this section, nonqualified preferred stock (as defined in section 351(g)(2)) shall be treated as property other than stock.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions after June 8, 1997.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any transaction after June 8, 1997, if such transaction is—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the transaction.

Subtitle D—Administrative Provisions

SEC. 831. DECREASE OF THRESHOLD FOR REPORTING PAYMENTS TO CORPORATIONS PERFORMING SERVICES FOR FEDERAL AGENCIES.

(a) IN GENERAL.—Subsection (d) of section 6041A (relating to returns regarding payments of remuneration for services and direct sales) is amended by adding at the end the following new paragraph:

''(3) PAYMENTS TO CORPORATIONS BY FEDERAL EXECUTIVE AGENCIES.—

''(A) IN GENERAL.—Notwithstanding any regulation prescribed by the Secretary before the date of the enactment of this paragraph, subsection (a) shall apply to remuneration paid to a corporation by any Federal executive agency (as defined in section 6050M(b)).

''(B) EXCEPTION.—Subparagraph (A) shall not apply to—

''(i) services under contracts described in section 6050M(e)(3) with respect to which the requirements of section 6050M(e)(2) are met, and

''(ii) such other services as the Secretary may specify in regulations prescribed after the date of the enactment of this paragraph.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns the due date for which (determined without regard to any extension) is more than 90 days after the date of the enactment of this Act.

SEC. 832. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.

(a) GENERAL RULE.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking ''Clause (viii) shall not apply after September 30, 1998.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 833. RETURNS OF BENEFICIARIES OF ESTATES AND TRUSTS REQUIRED TO FILE RETURNS CONSISTENT WITH ESTATE OR TRUST RETURN OR TO NOTIFY SECRETARY OF INCONSISTENCY.

(a) DOMESTIC ESTATES AND TRUSTS.—Section 6034A (relating to information to beneficiaries of estates and trusts) is amended by adding at the end the following new subsection:

''(c) BENEFICIARY'S RETURN MUST BE CONSISTENT WITH ESTATE OR TRUST RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

''(1) IN GENERAL.—A beneficiary of any estate or trust to which subsection (a) applies shall, on such beneficiary's return, treat any reported item in a manner which is consistent with the treatment of such item on the applicable entity's return.

''(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

''(A) IN GENERAL.—In the case of any reported item, if—

''(i)(I) the applicable entity has filed a return but the beneficiary's treatment on such beneficiary's return is (or may be) inconsistent with the treatment of the item on the applicable entity's return, or

''(II) the applicable entity has not filed a return, and

''(ii) the beneficiary files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

''(B) BENEFICIARY RECEIVING INCORRECT INFORMATION.—A beneficiary shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a reported item if the beneficiary—

''(i) demonstrates to the satisfaction of the Secretary that the treatment of the reported item on the beneficiary's return is consistent with the treatment of the item on the statement furnished under subsection (a) to the beneficiary by the applicable entity, and

''(ii) elects to have this paragraph apply with respect to that item.

''(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

''(A) described in subparagraph (A)(i)(I) of paragraph (2), and

''(B) in which the beneficiary does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such beneficiary consistent with the treatment of the items on the applicable entity's return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

''(4) DEFINITIONS.—For purposes of this subsection—

''(A) REPORTED ITEM.—The term 'reported item' means any item for which information is required to be furnished under subsection (a).

''(B) APPLICABLE ENTITY.—The term 'applicable entity' means the estate or trust of which the taxpayer is the beneficiary.

''(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—For addition to tax in the case of a beneficiary's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68.''.

(b) FOREIGN TRUSTS.—Subsection (d) of section 6048 (relating to information with respect to certain foreign trusts) is amended by adding at the end the following new paragraph:

''(5) UNITED STATES PERSON'S RETURN MUST BE CONSISTENT WITH TRUST RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—Rules similar to the rules of section 6034A(c) shall apply to items reported by a trust under subsection (b)(1)(B) and to United States persons referred to in such subsection.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns of beneficiaries and owners filed after the date of the enactment of this Act.

SEC. 834. CONTINUOUS LEVY ON CERTAIN PAYMENTS.

(a) IN GENERAL.—Section 6331 (relating to levy and distraint) is amended—

(1) by redesignating subsection (h) as subsection (i), and

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

''(h) CONTINUING LEVY ON CERTAIN PAYMENTS.—

''(1) IN GENERAL.—The effect of a levy on specified payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such continuous levy shall attach to up to 15 percent of any specified payment due to the taxpayer.

''(2) SPECIFIED PAYMENT.—For the purposes of paragraph (1), the term 'specified payment' means—

''(A) any Federal payment other than a payment for which eligibility is based on the income or assets (or both) of a payee, and

''(B) any payment described in paragraph (4), (7), (9), or (11) of section 6334(a).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to levies issued after the date of the enactment of this Act.

SEC. 835. MODIFICATION OF LEVY EXEMPTION.

(a) IN GENERAL.—Section 6334 (relating to property exempt from levy) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) LEVY ALLOWED ON CERTAIN SPECIFIED PAYMENTS.—Any payment described in subparagraph (B) of section 6331(h)(2) shall not be exempt from levy if the Secretary approves the levy thereon under section 6331(h).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to levies issued after the date of the enactment of this Act.

SEC. 836. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) IN GENERAL.—Subsection (k) of section 6103 is amended by adding at the end the following new paragraph:

''(8) LEVIES ON CERTAIN GOVERNMENT PAYMENTS.—

''(A) DISCLOSURE OF RETURN INFORMATION IN LEVIES ON FINANCIAL MANAGEMENT SERVICE.—In serving a notice of levy, or release of such levy, with respect to any applicable government payment, the Secretary may disclose to officers and employees of the Financial Management Service—

''(i) return information, including taxpayer identity information,

''(ii) the amount of any unpaid liability under this title (including penalties and interest), and

''(iii) the type of tax and tax period to which such unpaid liability relates.

''(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Financial Management Service only for the purpose of, and to the extent necessary in, transferring levied funds in satisfaction of the levy, maintaining appropriate agency records in regard to such levy or the release thereof, notifying the taxpayer and the agency certifying such payment that the levy has been honored, or in the defense of any litigation ensuing from the honor of such levy.

''(C) APPLICABLE GOVERNMENT PAYMENT.—For purposes of this paragraph, the term 'applicable government payment' means—

''(i) any Federal payment (other than a payment for which eligibility is based on the income or assets (or both) of a payee) certified to the Financial Management Service for disbursement, and

''(ii) any other payment which is certified to the Financial Management Service for disbursement and which the Secretary designates by published notice.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6301(p) is amended—

(A) in paragraph (3)(A), by striking ''(2), or (6)'' and inserting ''(2), (6), or (8)'', and

(B) in paragraph (4), by inserting ''(k)(8),'' after ''(j) (1) or (2),'' each place it appears.

(2) Section 552a(a)(8)(B) of title 5, United States Code, is amended by striking ''or'' at the end of clause (v), by adding ''or'' at the end of clause (vi), and by adding at the end the following new clause:

''(vii) matches performed incident to a levy described in section 6103(k)(8) of the Internal Revenue Code of 1986;''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to levies issued after the date of the enactment of this Act.

Subtitle E—Excise Tax Provisions

SEC. 841. EXTENSION AND MODIFICATION OF AIRPORT AND AIRWAY TRUST FUND TAXES.

(a) FUEL TAXES.—

(1) AVIATION FUEL.—Clause (ii) of section 4091(b)(3)(A) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2007''.

(2) AVIATION GASOLINE.—Subparagraph (B) of section 4081(d)(2) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2007''.

(3) NONCOMMERCIAL AVIATION.—Subparagraph (B) of section 4041(c)(3) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2007''.

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(g)(1)(A) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2007''.

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2007''.

(c) MODIFICATIONS.—

(1) USE OF INTERNATIONAL TRAVEL FACILITIES.—Subsection (c) of section 4261 is amended to read as follows:

''(c) USE OF INTERNATIONAL TRAVEL FACILITIES.—

''(1) IN GENERAL.—There is hereby imposed a tax of $8 on any amount paid (whether within or without the United States) for any transportation of any person by air, if such transportation begins or ends in the United States.

''(2) EXCEPTION FOR TRANSPORTATION ENTIRELY TAXABLE UNDER SUBSECTION (a).—This subsection shall not apply to any transportation all of which is taxable under subsection (a) (determined without regard to sections 4281 and 4282).

''(3) SPECIAL RULE FOR ALASKA AND HAWAII.—In any case in which the tax imposed by paragraph (1) applies to a segment between the continental United States and Alaska or Hawaii or between Alaska and Hawaii, such tax shall apply only to departures and shall be at the rate of $6.''.

(2) SPECIAL RULES.—Section 4261 is amended by redesignating subsections (e), (f), and (g), as subsections (f), (g), and (h), respectively, and by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULES.—

''(1) APPLICATION OF SUBSECTION (a) TO DOMESTIC SEGMENTS OF INTERNATIONAL TRANSPORTATION.—

''(A) IN GENERAL.—In the case of taxable transportation described in section 4262(a)(2), the tax imposed by subsection (a) shall be applied by taking into account only an amount which bears the same ratio to the amount paid for such transportation as the number of specified miles in the domestic segments of such transportation bears to the total number of specified miles in such transportation.

''(B) SPECIFIED MILES.—For purposes of subparagraph (A), the term 'specified miles' means the great circle miles (as specified by the Secretary) between the 2 points of each segment. The Secretary may specify mileage which shall apply in lieu of the mileage determined under the preceding sentence with respect to any 2 points if the Secretary determines that the mileage on the route customarily traveled by air between such points is different from the mileage determined under the preceding sentence.

''(C) DOMESTIC SEGMENT.—For purposes of this section, the term 'domestic segment' means any segment which is taxable transportation described in section 4262(a)(1).

''(2) REDUCED RATE OF TAX FOR SEGMENTS TO AND FROM RURAL AIRPORTS.—

''(A) IN GENERAL.—Subsections (a) and (b) shall be applied by substituting '7.5 percent' for '10 percent' in the case of any segment beginning or ending at an airport which is a rural airport for the calendar year in which such segment begins or ends (as the case may be).

''(B) RURAL AIRPORT.—For purposes of subparagraph (A), the term 'rural airport' means, with respect to any calendar year, any airport if—

''(i) there were fewer than 100,000 commercial passengers departing by air during the second preceding calendar year from such airport, and

''(ii) such airport—

''(I) is not located within 75 miles of another airport which is not described in clause (i), or

''(II) is receiving essential air service subsidies as of the date of the enactment of this paragraph.

''(C) TRANSPORTATION INVOLVING MULTIPLE SEGMENTS.—In the case of transportation involving more than 1 segment at least 1 of which does not begin or end at a rural airport, subparagraph (A) shall be applied by taking into account only an amount which bears the same ratio to the amount paid for such transportation as the number of specified miles in segments which begin or end at a rural airport bears to the total number of specified miles in such transportation.

''(3) AMOUNTS PAID FOR RIGHT TO AWARD FREE OR REDUCED RATE AIR TRANSPORTATION.—Any amount paid (or other benefit provided) to an air carrier (or any related person) for the right to provide mileage awards for (or other reductions in the cost of) any transportation of persons by air shall be treated for purposes of subsection (a) as an amount paid for taxable transportation, and such amount shall be taxable under subsection (a) without regard to any other provision of this subchapter. The Secretary shall prescribe rules which reallocate items of income, deduction, credit, exclusion, or other allowance to the extent necessary to prevent the avoidance of tax imposed by reason of this paragraph.''.

(3) SECONDARY LIABILITY OF CARRIER FOR UNPAID TAX.—Subsection (c) of section 4263 is amended by striking ''subchapter—'' and all that follows and inserting ''subchapter, such tax shall be paid by the carrier providing the initial segment of such transportation which begins or ends in the United States.''.

(4) TECHNICAL AMENDMENTS.—

(A) Paragraph (2) of section 4262(a) is amended by striking ''United States, but'' and all that follows and inserting ''United States.''.

(B) Subsection (c) of section 4262 is amended by striking paragraph (3).

(d) EFFECTIVE DATES.—

(1) FUEL TAXES.—The amendments made by subsection (a) shall apply take effect on October 1, 1997.

(2) TICKET TAXES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by subsections (b) and (c) shall apply to transportation beginning on or after October 1, 1997.

(B) TREATMENT OF AMOUNTS PAID FOR TICKETS PURCHASED BEFORE DATE OF ENACTMENT.—The amendments made by subsection (c) shall not apply to amounts paid for a ticket purchased before the date of the enactment of this Act for a specified flight beginning on or after October 1, 1997.

(C) AMOUNTS PAID FOR RIGHT TO AWARD MILEAGE AWARDS.—

(i) IN GENERAL.—Paragraph (2) of section 4261(e) of the Internal Revenue Code of 1986 (as added by the amendment made by subsection (c)) shall apply to amounts paid after September 30, 1997.

(ii) PAYMENTS WITHIN CONTROLLED GROUP.—For purposes of clause (i), any amount paid after June 16, 1997, and before October 1, 1997, by 1 member of a controlled group for a right which is described in such section 4261(e)(2) and is furnished by another member of such group after September 30, 1997, shall be treated as paid after September 30, 1997. For purposes of the preceding sentence, all persons treated as a single employer under subsection (a) or (b) of section 52 of such Code shall be treated as members of a controlled group.

(e) DELAYED DEPOSITS OF AIRLINE TICKET TAX REVENUES.—In the case of deposits of taxes imposed by section 4261 of the Internal Revenue Code of 1986, the due date for any such deposit which would (but for this subsection) be required to be made—

(1) after August 14, 1997, and before October 1, 1997, shall be October 10, 1997, and

(2) after July 1, 2001, and before October 1, 2001, shall be October 10, 2001.

SEC. 842. RESTORATION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

Paragraph (3) of section 4081(d) is amended by striking ''shall not apply after December 31, 1995'' and inserting ''shall apply after September 30, 1997, and before October 1, 2007''.

SEC. 843. APPLICATION OF COMMUNICATIONS TAX TO LONG-DISTANCE PREPAID TELEPHONE CARDS.

(a) IN GENERAL.—Section 4251 is amended by adding at the end the following new subsection:

''(d) TREATMENT OF PREPAID TELEPHONE CARDS.—

''(1) IN GENERAL.—For purposes of this subchapter, in the case of communications services acquired by means of a prepaid telephone card—

''(A) the purchase of such card shall not be treated as an amount paid for communications services, but

''(B) the amount paid to any telephone carrier from any person who is not such a provider on account of the use of such a card to acquire communications services shall be treated as an amount paid for such communications services.

''(2) PREPAID TELEPHONE CARD.—For purposes of paragraph (1), the term 'prepaid telephone card' means any card or other similar arrangement which permits its holder to obtain communications services and pay for such services in advance.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid on or after the date of the enactment of this Act.

SEC. 844. UNIFORM RATE OF TAX ON VACCINES.

(a) IN GENERAL.—Subsection (b) of section 4131 is amended to read as follows:

''(b) AMOUNT OF TAX.—

''(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be 84 cents per dose of any taxable vaccine.

''(2) COMBINATIONS OF VACCINES.—If any taxable vaccine is described in more than 1 subparagraph of section 4132(a)(1), the amount of the tax imposed by subsection (a) on such vaccine shall be the sum of the amounts for the vaccines which are so included.''.

(b) TAXABLE VACCINES.—Paragraph (1) of section 4132(a) is amended to read as follows:

''(1) TAXABLE VACCINE.—The term 'taxable vaccine' means any of the following vaccines which are manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing:

''(A) Any vaccine containing diphtheria toxoid.

''(B) Any vaccine containing tetanus toxoid.

''(C) Any vaccine containing pertussis bacteria, extracted or partial cell bacteria, or specific pertussis antigens.

''(D) Any vaccine against measles.

''(E) Any vaccine against mumps.

''(F) Any vaccine against rubella.

''(G) Any vaccine containing polio virus.

''(H) Any HIB vaccine.

''(I) Any vaccine against hepatitis B.

''(J) Any vaccine against chicken pox.''.

(c) CONFORMING AMENDMENT.—Subsection (a) of section 4132 is amended by striking paragraphs (2), (3), and (4) and by redesignating

paragraphs (5) through (8) as paragraphs (2) through (5), respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

(e) LIMITATION ON CERTAIN CREDITS OR REFUNDS.—For purposes of applying section 4132(b) of the Internal Revenue Code of 1986 with respect to any claim for credit or refund filed before April 1, 1998, the amount of tax taken into account shall not exceed the tax computed under the rate in effect on October 1, 1997.

SEC. 845. CREDIT FOR TIRE TAX IN LIEU OF EXCLUSION OF VALUE OF TIRES IN COMPUTING PRICE.

(a) IN GENERAL.—Subsection (e) of section 4051 is amended to read as follows:

''(e) CREDIT AGAINST TAX FOR TIRE TAX.—If—

''(1) tires are sold on or in connection with the sale of any article, and

''(2) tax is imposed by this subchapter on the sale of such tires,

there shall be allowed as a credit against the tax imposed by this subchapter an amount equal to the tax (if any) imposed by section 4071 on such tires.''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 4052(b)(1) is amended by striking clause (iii), by adding ''and'' at the end of clause (ii), and by redesignating clause (iv) as clause (iii).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1998.

SEC. 846. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking ''$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)'' in paragraph (1) and inserting ''$22 per thousand'', and

(2) by striking ''$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)'' in paragraph (2) and inserting ''$46.20 per thousand''.

(b) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking ''$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)'' in paragraph (1) and inserting ''$2.063 cents per thousand'', and

(2) by striking ''equal to'' and all that follows in paragraph (2) and inserting ''equal to 23.375 percent of the price for which sold but not more than $55 per thousand.''.

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking ''0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)'' and inserting ''1.38 cents''.

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking ''1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)'' and inserting ''2.75 cents''.

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking ''36 cents (30 cents on snuff removed during 1991 or 1992)'' in paragraph (1) and inserting ''66 cents'', and

(2) by striking ''12 cents (10 cents on chewing tobacco removed during 1991 or 1992)'' in paragraph (2) and inserting ''22 cents''.

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking ''67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)'' and inserting ''$1.2375 cents''.

(g) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5701 (relating to rate of tax) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of 66 cents per pound (and a proportionate tax at the like rate on all fractional parts of a pound).''.

(2) ROLL-YOUR-OWN TOBACCO.—Section 5702 (relating to definitions) is amended by adding at the end the following new subsection:

''(p) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.''.

(3) TECHNICAL AMENDMENTS.—

(A) Subsection (c) of section 5702 is amended by striking ''and pipe tobacco'' and inserting ''pipe tobacco, and roll-your-own tobacco''.

(B) Subsection (d) of section 5702 is amended—

(i) in the material preceding paragraph (1), by striking ''or pipe tobacco'' and inserting ''pipe tobacco, or roll-your-own tobacco'', and

(ii) by striking paragraph (1) and inserting the following new paragraph:

''(1) a person who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the person's own personal consumption or use, and''.

(C) The chapter heading for chapter 52 is amended to read as follows:

''CHAPTER 52—TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES''.

(D) The table of chapters for subtitle E is amended by striking the item relating to chapter 52 and inserting the following new item:

''CHAPTER 52. Tobacco products and cigarette papers and tubes.''.

(h) MODIFICATIONS OF CERTAIN TOBACCO TAX PROVISIONS.—

(1) EXEMPTION FOR EXPORTED TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES TO APPLY ONLY TO ARTICLES MARKED FOR EXPORT.—

(A) Subsection (b) of section 5704 is amended by adding at the end the following new sentence: ''Tobacco products and cigarette papers and tubes may not be transferred or removed under this subsection unless such products or papers and tubes bear such marks, labels, or notices as the Secretary shall by regulations prescribe.''.

(B) Section 5761 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

''(c) SALE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES FOR EXPORT.—Except as provided in subsections (b) and (d) of section 5704—

''(1) every person who sells, relands, or receives within the jurisdiction of the United States any tobacco products or cigarette papers or tubes which have been labeled or shipped for exportation under this chapter,

''(2) every person who sells or receives such relanded tobacco products or cigarette papers or tubes, and

''(3) every person who aids or abets in such selling, relanding, or receiving,

shall, in addition to the tax and any other penalty provided in this title, be liable for a penalty equal to the greater of $1,000 or 5 times the amount of the tax imposed by this chapter. All tobacco products and cigarette papers and tubes relanded within the jurisdiction of the United States, and all vessels, vehicles, and aircraft used in such relanding or in removing such products, papers, and tubes from the place where relanded, shall be forfeited to the United States.''.

(C) Subsection (a) of section 5761 is amended by striking ''subsection (b)'' and inserting ''subsection (b) or (c)''.

(D) Subsection (d) of section 5761, as redesignated by subparagraph (B), is amended by striking ''The penalty imposed by subsection (b)'' and inserting ''The penalties imposed by subsections (b) and (c)''.

(E)(i) Subpart F of chapter 52 is amended by adding at the end the following new section:

''SEC. 5754. RESTRICTION ON IMPORTATION OF PREVIOUSLY EXPORTED TOBACCO PRODUCTS.

''(a) IN GENERAL.—Tobacco products and cigarette papers and tubes previously exported from the United States may be imported or brought into the United States only as provided in section 5704(d). For purposes of this section, section 5704(d), section 5761, and such other provisions as the Secretary may specify by regulations, references to exportation shall be treated as including a reference to shipment to the Commonwealth of Puerto Rico.

''(b) CROSS REFERENCE.—

''For penalty for the sale of tobacco products and cigarette papers and tubes in the United States which are labeled for export, see section 5761(c).''.

(ii) The table of sections for subpart F of chapter 52 is amended by adding at the end the following new item:

''Sec. 5754. Restriction on importation of previously exported tobacco products.''.

(2) IMPORTERS REQUIRED TO BE QUALIFIED.—

(A) Sections 5712, 5713(a), 5721, 5722, 5762(a)(1), and 5763 (b) and (c) are each amended by inserting ''or importer'' after ''manufacturer''.

(B) The heading of subsection (b) of section 5763 is amended by inserting ''QUALIFIED IMPORTERS,'' after ''MANUFACTURERS,''.

(C) The heading for subchapter B of chapter 52 is amended by inserting ''***and Importers***'' after ''***Manufacturers***''.

(D) The item relating to subchapter B in the table of subchapters for chapter 52 is amended by inserting ''and importers'' after ''manufacturers''.

(3) BOOKS OF 25 OR FEWER CIGARETTE PAPERS SUBJECT TO TAX.—Subsection (c) of section 5701 is amended by striking ''On each book or set of cigarette papers containing more than 25 papers,'' and inserting ''On cigarette papers,''.

(4) STORAGE OF TOBACCO PRODUCTS.—Subsection (k) of section 5702 is amended by inserting ''under section 5704'' after ''internal revenue bond''.

(5) AUTHORITY TO PRESCRIBE MINIMUM MANUFACTURING ACTIVITY REQUIREMENTS.—Section 5712 is amended by striking ''or'' at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) the activity proposed to be carried out at such premises does not meet such minimum capacity or activity requirements as the Secretary may prescribe, or''.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this section) after September 30, 1997.

(2) TRANSITIONAL RULE.—Any person who—

(A) on the date of the enactment of this Act is engaged in business as a manufacturer of roll-your-own tobacco or as an importer of tobacco products or cigarette papers and tubes, and

(B) before October 1, 1997, submits an application under subchapter B of chapter 52 of such Code to engage in such business,

may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.

(j) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On tobacco products and cigarette papers and tubes manufactured in or imported into the United States which are removed before October 1, 1997, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of the Internal Revenue Code of 1986 on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 of such Code on such article.

(2) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on October 1, 1997, by any person in any vending machine. If the Secretary provides such a benefit with respect to any person, the Secretary may reduce the $500 amount in paragraph (3) with respect to such person.

(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) on October 1, 1997, for which such person is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on October 1, 1997, to which any 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 January 2, 1998.

(5) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) and any other provision of law, any article which is located in a foreign trade zone on October 1, 1997, shall be subject to the tax imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

(6) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section, as amended by this Act.

(B) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(7) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(8) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 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 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

Subtitle F—Provisions Relating to Tax-Exempt Entities

SEC. 851. EXPANSION OF LOOK-THRU RULE FOR INTEREST, ANNUITIES, ROYALTIES, AND RENTS DERIVED BY SUBSIDIARIES OF TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (13) of section 512(b) is amended to read as follows:

''(13) SPECIAL RULES FOR CERTAIN AMOUNTS RECEIVED FROM CONTROLLED ENTITIES.—

''(A) IN GENERAL.—If an organization (in this paragraph referred to as the 'controlling organization') receives (directly or indirectly) a specified payment from another entity which it controls (in this paragraph referred to as the 'controlled entity'), notwithstanding paragraphs (1), (2), and (3), the controlling organization shall include such payment as an item of gross income derived from an unrelated trade or business to the extent such payment reduces the net unrelated income of the controlled entity (or increases any net unrelated loss of the controlled entity). There shall be allowed all deductions of the controlling organization directly connected with amounts treated as derived from an unrelated trade or business under the preceding sentence.

''(B) NET UNRELATED INCOME OR LOSS.—For purposes of this paragraph—

''(i) NET UNRELATED INCOME.—The term 'net unrelated income' means—

''(I) in the case of a controlled entity which is not exempt from tax under section 501(a), the portion of such entity's taxable income which would be unrelated business taxable income if such entity were exempt from tax under section 501(a) and had the same exempt purposes (as defined in section 513A(a)(5)(A)) as the controlling organization, or

''(II) in the case of a controlled entity which is exempt from tax under section 501(a), the amount of the unrelated business taxable income of the controlled entity.

''(ii) NET UNRELATED LOSS.—The term 'net unrelated loss' means the net operating loss adjusted under rules similar to the rules of clause (i).

''(C) SPECIFIED PAYMENT.—For purposes of this paragraph, the term 'specified payment' means any interest, annuity, royalty, or rent.

''(D) DEFINITION OF CONTROL.—For purposes of this paragraph—

''(i) CONTROL.—The term 'control' means—

''(I) in the case of a corporation, ownership (by vote or value) of more than 50 percent of the stock in such corporation,

''(II) in the case of a partnership, ownership of more than 50 percent of the profits interests or capital interests in such partnership, or

''(III) in any other case, ownership of more than 50 percent of the beneficial interests in the entity.

''(ii) CONSTRUCTIVE OWNERSHIP.—Section 318 (relating to constructive ownership of stock) shall apply for purposes of determining ownership of stock in a corporation. Similar principles shall apply for purposes of determining ownership of interests in any other entity.

''(E) RELATED PERSONS.—The Secretary shall prescribe such rules as may be necessary or appropriate to prevent avoidance of the purposes of this paragraph through the use of related persons.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CONTROL TEST.—In the case of taxable years beginning before January 1, 1999, an organization shall be treated as controlling another organization for purposes of section 512(b)(13) of the Internal Revenue Code of 1986 (as amended by this section) only if it controls such organization within the meaning of such section, determined by substituting ''80 percent'' for ''50 percent'' each place it appears in subparagraph (D) thereof.

SEC. 852. LIMITATION ON INCREASE IN BASIS OF PROPERTY RESULTING FROM SALE BY TAX-EXEMPT ENTITY TO A RELATED PERSON.

(a) IN GENERAL.—Part IV of subchapter O of chapter 1 (relating to special rules for gain or loss on disposition of property) is amended by redesignating section 1061 as section 1062 and by inserting after section 1060 the following new section:

''SEC. 1061. BASIS LIMITATION FOR SALE OR EXCHANGE OF PROPERTY BY TAX-EXEMPT ENTITY TO RELATED PERSON.

''(a) GENERAL RULE.—In the case of a sale or exchange of property directly or indirectly between a tax-exempt entity and a related person, the basis of the related person in the property acquired shall not exceed the adjusted basis of such property (immediately before the exchange) in the hands of the tax-exempt entity, increased by the amount of gain recognized to the tax-exempt entity on the transfer which is subject to tax under section 511.

''(b) DEFINITIONS.—For purposes of this section—

''(1) TAX-EXEMPT ENTITY.—The term 'tax-exempt entity' has the meaning given such term by section 168(h)(2) determined without regard to subparagraph (A)(iii) thereof.

''(2) RELATED PERSON.—The term 'related person' means any person bearing a relationship to the tax-exempt entity which is described in section 267(b) or 707(b)(1). For purposes of applying section 267(b)(2) under the preceding sentence, such an entity shall be treated as if it were an individual.''.

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 is amended by striking the last item and inserting the following:

''Sec. 1061. Basis limitation for sale or exchange of property by tax-exempt entity to related person.

''Sec. 1062. Cross references.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales and exchanges after June 8, 1997.

(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any sale or exchange pursuant to a written contract which was binding on June 8, 1997, and at all times thereafter before the sale or exchange.

SEC. 853. TERMINATION OF EXCEPTION FROM RULES RELATING TO EXEMPT ORGANIZATIONS WHICH PROVIDE COMMERCIAL-TYPE INSURANCE.

(a) IN GENERAL.—Subparagraph (A) of section 1012(c)(4) of the Tax Reform Act of 1986 shall not apply to any taxable year beginning after December 31, 1997.

(b) SPECIAL RULES.—In the case of an organization to which section 501(m) of the Internal Revenue Code of 1986 applies solely by reason of the amendment made by subsection (a)—

(1) no adjustment shall be made under section 481 (or any other provision) of such Code on account of a change in its method of accounting for its first taxable year beginning after December 31, 1997, and

(2) for purposes of determining gain or loss, the adjusted basis of any asset held on the 1st day of such taxable year shall be treated as equal to its fair market value as of such day.

(c) RESERVE WEAKENING AFTER JUNE 8, 1997.—Any reserve weakening after June 8, 1997, by an organization described in subsection (b) shall be treated as occurring in such organizations 1st taxable year beginning after December 31, 1997.

(d) REGULATIONS.—The Secretary of the Treasury or his delegate may prescribe rules for providing proper adjustments for organizations described in subsection (b) with respect to short taxable years which begin during 1998 by reason of section 843 of the Internal Revenue Code of 1986.

Subtitle G—Foreign Provisions

SEC. 861. DEFINITION OF FOREIGN PERSONAL HOLDING COMPANY INCOME.

(a) INCOME FROM NOTIONAL PRINCIPAL CONTRACTS AND PAYMENTS IN LIEU OF DIVIDENDS.—

(1) IN GENERAL.—Paragraph (1) of section 954(c) (defining foreign personal holding company income) is amended by adding at the end the following new subparagraphs:

''(F) INCOME FROM NOTIONAL PRINCIPAL CONTRACTS.—Net income from notional principal contracts. Any item of income, gain, deduction, or loss from a notional principal contract entered into for purposes of hedging any item described in any preceding subparagraph shall not

be taken into account for purposes of this subparagraph but shall be taken into account under such other subparagraph.

''(G) PAYMENTS IN LIEU OF DIVIDENDS.—Payments in lieu of dividends which are made pursuant to an agreement to which section 1058 applies.''.

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 954(c)(1) is amended—

(A) by striking the second sentence, and

(B) by striking ''also'' in the last sentence.

(b) EXCEPTION FOR DEALERS.—Paragraph (2) of section 954(c) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEALERS.—Except as provided in subparagraph (A), (E), or (G) of paragraph (1) or by regulations, in the case of a regular dealer in property (within the meaning of paragraph (1)(B)), forward contracts, option contracts, or similar financial instruments (including notional principal contracts and all instruments referenced to commodities), there shall not be taken into account in computing foreign personal holding income any item of income, gain, deduction, or loss from any transaction (including hedging transactions) entered into in the ordinary course of such dealer's trade or business as such a dealer.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 862. PERSONAL PROPERTY USED PREDOMINANTLY IN THE UNITED STATES TREATED AS NOT PROPERTY OF A LIKE KIND WITH RESPECT TO PROPERTY USED PREDOMINANTLY OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Subsection (h) of section 1031 (relating to exchange of property held for productive use or investment) is amended to read as follows:

''(h) SPECIAL RULES FOR FOREIGN REAL AND PERSONAL PROPERTY.—For purposes of this section—

''(1) REAL PROPERTY.—Real property located in the United States and real property located outside the United States are not property of a like kind.

''(2) PERSONAL PROPERTY.—

''(A) IN GENERAL.—Personal property used predominantly within the United States and personal property used predominantly outside the United States are not property of a like kind.

''(B) PREDOMINANT USE.—Except as provided in subparagraph (C) and (D), the predominant use of any property shall be determined based on—

''(i) in the case of the property relinquished in the exchange, the 2-year period ending on the date of such relinquishment, and

''(ii) in the case of the property acquired in the exchange, the 2-year period beginning on the date of such acquisition.

''(C) PROPERTY HELD FOR LESS THAN 2 YEARS.—Except in the case of an exchange which is part of a transaction (or series of transactions) structured to avoid the purposes of this subsection—

''(i) only the periods the property was held by the person relinquishing the property (or any related person) shall be taken into account under subparagraph (B)(i), and

''(ii) only the periods the property was held by the person acquiring the property (or any related person) shall be taken into account under subparagraph (B)(ii).

''(D) SPECIAL RULE FOR CERTAIN PROPERTY.—Property described in any subparagraph of section 168(g)(4) shall be treated as used predominantly in the United States.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to transfers after June 8, 1997, in taxable years ending after such date.

(2) BINDING CONTRACTS.—The amendment made by this section shall not apply to any transfer pursuant to a written binding contract in effect on June 8, 1997, and at all times thereafter before the disposition of property. A contract shall not fail to meet the requirements of the preceding sentence solely because—

(A) it provides for a sale in lieu of an exchange, or

(B) the property to be acquired as replacement property was not identified under such contract before June 9, 1997.

SEC. 863. HOLDING PERIOD REQUIREMENT FOR CERTAIN FOREIGN TAXES.

(a) IN GENERAL.—Section 901 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) MINIMUM HOLDING PERIOD FOR CERTAIN TAXES.—

''(1) WITHHOLDING TAXES.—

''(A) IN GENERAL.—In no event shall a credit be allowed under subsection (a) for any withholding tax on a dividend with respect to stock in a corporation if—

''(i) such stock is held by the recipient of the dividend for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which such share becomes ex-dividend with respect to such dividend, or

''(ii) to the extent that the recipient of the dividend is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

''(B) WITHHOLDING TAX.—For purposes of this paragraph, the term 'withholding tax' includes any tax determined on a gross basis; but does not include any tax which is in the nature of a prepayment of a tax imposed on a net basis.

''(2) DEEMED PAID TAXES.—In the case of income, war profits, or excess profits taxes deemed paid under section 853, 902, or 960 through a chain of ownership of stock in 1 or more corporations, no credit shall be allowed under subsection (a) for such taxes if—

''(A) any stock of any corporation in such chain (the ownership of which is required to obtain credit under subsection (a) for such taxes) is held for less than the period described in paragraph (1)(A)(i), or

''(B) the corporation holding the stock is under an obligation referred to in paragraph (1)(A)(ii).

''(3) 45-DAY RULE IN THE CASE OF CERTAIN PREFERENCE DIVIDENDS.—In the case of stock having preference in dividends and dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days, paragraph (1)(A)(i) shall be applied—

''(A) by substituting '45 days' for '15 days' each place it appears, and

''(B) by substituting '90-day period' for '30-day period'.

''(4) EXCEPTION FOR CERTAIN TAXES PAID BY SECURITIES DEALERS.—

''(A) IN GENERAL.—Paragraphs (1) and (2) shall not apply to any qualified tax with respect to any security held in the active conduct in a foreign country of a securities business of any person—

''(i) who is registered as a securities broker or dealer under section 15(a) of the Securities Exchange Act of 1934,

''(ii) who is registered as a Government securities broker or dealer under section 15C(a) of such Act, or

''(iii) who is licensed or authorized in such foreign country to conduct securities activities in such country and is subject to bona fide regulation by a securities regulating authority of such country.

''(B) QUALIFIED TAX.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

''(i) the dividend to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

''(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

''(C) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to prevent the abuse of the exception provided by this paragraph.

''(5) CERTAIN RULES TO APPLY.—For purposes of this subsection, the rules of paragraphs (3) and (4) of section 246(c) shall apply.

''(6) TREATMENT OF BONA FIDE SALES.—If a person's holding period is reduced by reason of the application of the rules of section 246(c)(4) to any contract for the bona fide sale of stock, the determination of whether such person's holding period meets the requirements of paragraph (2) with respect to taxes deemed paid under section 902 or 960 shall be made as of the date such contract is entered into.

''(7) TAXES ALLOWED AS DEDUCTION, ETC.—Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.''.

(b) NOTICE OF WITHHOLDING TAXES PAID BY REGULATED INVESTMENT COMPANY.—Subsection (c) of section 853 (relating to foreign tax credit allowed to shareholders) is amended by adding at the end the following new sentence: ''Such notice shall also include the amount of such taxes which (without regard to the election under this section) would not be allowable as a credit under section 901(a) to the regulated investment company by reason of section 901(k).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends paid or accrued more than 30 days after the date of the enactment of this Act.

SEC. 864. SOURCE RULES FOR INVENTORY PROPERTY.

(a) IN GENERAL.—Section 865(b) is amended by adding at the end the following new paragraph:

''(2) CERTAIN SALES FOR USE IN UNITED STATES.—If—

''(A) a United States resident sells (directly or indirectly) inventory property to another United States resident for use, consumption, or disposition in the United States, and

''(B) such sale is not attributable to an office or other fixed place of business maintained by the seller outside the United States,

any income of such United States resident (or any related person) from such sale shall be sourced in the United States.''.

(b) CONFORMING AMENDMENTS.—Section 865(b) is amended—

(1) by striking ''In the case of'' and inserting: ''(1) IN GENERAL.—In the case of'', and

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 865. INTEREST ON UNDERPAYMENTS NOT REDUCED BY FOREIGN TAX CREDIT CARRYBACKS.

(a) IN GENERAL.—Subsection (d) of section 6601 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) FOREIGN TAX CREDIT CARRYBACKS.—If any credit allowed for any taxable year is increased by reason of a carryback of tax paid or accrued to foreign countries or possessions of the United States, such increase shall not affect the computation of interest under this section for the period ending with the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the filing date for such subsequent taxable year.''.

(b) CONFORMING AMENDMENT TO REFUNDS ATTRIBUTABLE TO FOREIGN TAX CREDIT CARRYBACKS.—

(1) IN GENERAL.—Subsection (f) of section 6611 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) FOREIGN TAX CREDIT CARRYBACKS.—For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a carryback of tax paid or accrued to foreign countries or possessions of the United States, such overpayment shall be deemed not to have been made before the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made before the filing date for such subsequent taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (4) of section 6611(f) (as so redesignated) is amended—

(i) by striking ''PARAGRAPHS (1) AND (2)'' and inserting ''PARAGRAPHS (1), (2), AND (3)'', and

(ii) by striking ''paragraph (1) or (2)'' each place it appears and inserting ''paragraph (1), (2), or (3)''.

(B) Clause (ii) of section 6611(f)(4)(B) (as so redesignated) is amended by striking ''and'' at the end of subclause (I), by redesignating subclause (II) as subclause (III), and by inserting after subclause (I) the following new subclause:

''(II) in the case of a carryback of taxes paid or accrued to foreign countries or possessions of the United States, the taxable year in which such taxes were in fact paid or accrued (or, with respect to any portion of such carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such subsequent taxable year), and''.

(C) Subclause (III) of section 6611(f)(4)(B)(ii) (as so redesignated) is amended by inserting ''(as defined in paragraph (3)(B))'' after ''credit carryback'' the first place it appears.

(D) Section 6611 is amended by striking subsection (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to carrybacks arising in taxable years beginning after the date of the enactment of this Act.

SEC. 866. CLARIFICATION OF PERIOD OF LIMITATIONS ON CLAIM FOR CREDIT OR REFUND ATTRIBUTABLE TO FOREIGN TAX CREDIT CARRYFORWARD.

(a) IN GENERAL.—Subparagraph (A) of section 6511(d)(3) is amended by striking ''for the year with respect to which the claim is made'' and inserting ''for the year in which such taxes were actually paid or accrued''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

SEC. 867. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) IN GENERAL.—Subsection (c) of section 904 (relating to limitation on credit) is amended—

(1) by striking ''in the second preceding taxable year,'', and

(2) by striking ''or fifth'' and inserting ''fifth, sixth, or seventh''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to credits arising in taxable years beginning after December 31, 1997.

SEC. 868. REPEAL OF EXCEPTION TO ALTERNATIVE MINIMUM FOREIGN TAX CREDIT LIMIT.

(a) IN GENERAL.—Section 59(a)(2) (relating to limitation to 90 percent of tax) is amended by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle H—Other Revenue Provisions

SEC. 871. TERMINATION OF SUSPENSE ACCOUNTS FOR FAMILY CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) IN GENERAL.—Subsection (i) of section 447 (relating to method of accounting for corporations engaged in farming) is amended by striking paragraph (3), by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively, and by adding at the end the following new paragraph:

''(6) TERMINATION.—

''(A) IN GENERAL.—No suspense account may be established under this subsection by any corporation required by this section to change its method of accounting for any taxable year ending after June 8, 1997.

''(B) PHASEOUT OF EXISTING SUSPENSE ACCOUNTS.—

''(i) IN GENERAL.—Each suspense account under this subsection shall be reduced (but not below zero) for each taxable year beginning after June 8, 1997, by an amount equal to the lesser of—

''(I) the applicable portion of such account, or

''(II) 50 percent of the taxable income of the corporation for the taxable year, or, if the corporation has no taxable income for such year, the amount of any net operating loss (as defined in section 172(c)) for such taxable year.

For purposes of the preceding sentence, the amount of taxable income and net operating loss shall be determined without regard to this paragraph.

''(ii) COORDINATION WITH OTHER REDUCTIONS.—The amount of the applicable portion for any taxable year shall be reduced (but not below zero) by the amount of any reduction required for such taxable year under any other provision of this subsection.

''(iv) INCLUSION IN INCOME.—Any reduction in a suspense account under this paragraph shall be included in gross income for the taxable year of the reduction.

''(C) APPLICABLE PORTION.—For purposes of subparagraph (B), the term 'applicable portion' means, for any taxable year, the amount which would ratably reduce the amount in the account (after taking into account prior reductions) to zero over the period consisting of such taxable year and the remaining taxable years in such first 20 taxable years.

''(D) AMOUNTS AFTER 20TH YEAR.—Any amount in the account as of the close of the 20th year referred to in subparagraph (C) shall be treated as the applicable portion for each succeeding year thereafter to the extent not reduced under this paragraph for any prior taxable year after such 20th year.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 8, 1997.

SEC. 872. MODIFICATION OF TAXABLE YEARS TO WHICH NET OPERATING LOSSES MAY BE CARRIED.

(a) IN GENERAL.—Subparagraph (A) of section 172(b)(1) (relating to years to which loss may be carried) is amended—

(1) by striking ''3'' in clause (i) and inserting ''2'', and

(2) by striking ''15'' in clause (ii) and inserting ''20''.

(b) RETENTION OF 3-YEAR CARRYBACK FOR CASUALTY LOSSES OF INDIVIDUALS.—Paragraph (1) of section 172(b) is amended by adding at the end the following new subparagraph:

''(F) RETENTION OF 3-YEAR CARRYBACK IN CERTAIN CASES.—

''(i) IN GENERAL.—Subparagraph (A)(i) shall be applied by substituting '3 years' for '2 years' with respect to the portion of the net operating loss for the taxable year which is an eligible loss with respect to the taxpayer.

''(ii) ELIGIBLE LOSS.—For purposes of clause (i), the term 'eligible loss' means—

''(I) in the case of an individual, losses of property arising from fire, storm, shipwreck, or other casualty, or from theft,

''(II) in the case of a taxpayer which is a small business, losses attributable to Presidentially declared disasters (as defined in section 1033(h)(3)), and

''(III) in the case of a taxpayer engaged in the trade or business of farming (as defined in section 263A(e)(4)), losses attributable to such Presidentially declared disasters.

''(iii) SMALL BUSINESS.—For purposes of this subparagraph, the term 'small business' means a corporation or partnership which meets the gross receipts test of section 448(c) for the taxable year in which the loss arose (or, in the case of a sole proprietorship, which would meet such test if such proprietorship were a corporation).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to net operating losses for taxable years beginning after the date of the enactment of this Act.

SEC. 873. EXPANSION OF DENIAL OF DEDUCTION FOR CERTAIN AMOUNTS PAID IN CONNECTION WITH INSURANCE.

(a) DENIAL OF DEDUCTION FOR PREMIUMS.—Paragraph (1) of section 264(a) is amended to read as follows:

''(1) Premiums on any life insurance policy, or endowment or annuity contract, if the taxpayer is directly or indirectly a beneficiary under the policy or contract.''.

(b) INTEREST ON POLICY LOANS.—Paragraph (4) of section 264(a) is amended by striking ''individual, who'' and all that follows and inserting ''individual.''.

(c) PRO RATA ALLOCATION OF INTEREST EXPENSE TO POLICY CASH VALUES.—Section 264 is amended by adding at the end the following new subsection:

''(e) PRO RATA ALLOCATION OF INTEREST EXPENSE TO POLICY CASH VALUES.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the taxpayer's interest expense which is allocable to unborrowed policy cash values.

''(2) ALLOCATION.—For purposes of paragraph (1), the portion of the taxpayer's interest expense which is allocable to unborrowed policy cash values is an amount which bears the same ratio to such interest expense as—

''(A) the taxpayer's average unborrowed policy cash values of life insurance policies, and annuity and endowment contracts, issued after June 8, 1997, bears to

''(B) the average adjusted bases (within the meaning of section 1016) for all assets of the taxpayer.

''(3) UNBORROWED POLICY CASH VALUES.—The term 'unborrowed policy cash value' means, with respect to any life insurance policy or annuity or endowment contract, the excess of—

''(A) the cash surrender value of such policy or contract determined without regard to any surrender charge, over

''(B) the amount of any loan in respect of such policy or contract.

''(4) EXCEPTION FOR CERTAIN POLICIES AND CONTRACTS COVERING OFFICERS, DIRECTORS, AND EMPLOYEES.—Paragraph (1) shall not apply to any policy or contract owned by an entity engaged in a trade or business which covers any individual who is an officer, director, or employee of such trade or business at the time first covered by the policy or contract, and such policies and contracts shall not be taken into account under paragraph (2).

''(5) EXCEPTION FOR POLICIES AND CONTRACTS HELD BY NATURAL PERSONS; TREATMENT OF PARTNERSHIPS AND S CORPORATIONS.—

''(A) POLICIES AND CONTRACTS HELD BY NATURAL PERSONS.—

''(i) IN GENERAL.—This subsection shall not apply to any policy or contract held by a natural person.

''(ii) EXCEPTION WHERE BUSINESS IS BENEFICIARY.—If a trade or business is directly or indirectly the beneficiary under any policy or contract, to the extent of the unborrowed cash value of such policy or contract, such policy or contract shall be treated as held by such trade or business and not by a natural person.

''(iii) SPECIAL RULES.—

''(I) CERTAIN TRADES OR BUSINESSES NOT TAKEN INTO ACCOUNT.—Clause (ii) shall not apply to any trade or business carried on as a sole proprietorship and to any trade or business performing services as an employee.

''(II) LIMITATION ON UNBORROWED CASH VALUE.—The amount of the unborrowed cash value of any policy or contract which is taken into account by reason of clause (ii) shall not exceed the benefit to which the trade or business is entitled under the policy or contract.

''(iv) REPORTING.—The Secretary shall require such reporting from policyholders and issuers as is necessary to carry out clause (ii). Any report required under the preceding sentence shall be treated as a statement referred to in section 6724(d)(1).

''(B) TREATMENT OF PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, this subsection shall be applied at the partnership and corporate levels.

''(6) SPECIAL RULES.—

''(A) COORDINATION WITH SUBSECTION (a) AND SECTION 265.—If interest on any indebtedness is disallowed under subsection (a) or section 265—

''(i) such disallowed interest shall not be taken into account for purposes of applying this subsection, and

''(ii) for purposes of applying paragraph (2)(B), the adjusted bases otherwise taken into account shall be reduced (but not below zero) by the amount of such indebtedness.

''(B) COORDINATION WITH SECTION 263A.—This subsection shall be applied before the application of section 263A (relating to capitalization of certain expenses where taxpayer produces property).''.

''(7) INTEREST EXPENSE.—The term 'interest expense' means the aggregate amount allowable to the taxpayer as a deduction for interest (within the meaning of section 265(b)(4)) for the taxable year (determined without regard to this subsection, section 265(b), and section 291).

''(8) AGGREGATION RULES.—

''(A) IN GENERAL.—All members of a controlled group (within the meaning of subsection (d)(5)(B)) shall be treated as 1 taxpayer for purposes of this subsection.

''(B) TREATMENT OF INSURANCE COMPANIES.—This subsection shall not apply to an insurance company, and subparagraph (A) shall be applied without regard to any insurance company.''.

(b) TREATMENT OF INSURANCE COMPANIES.—

(1) Clause (ii) of section 805(a)(4)(C) is amended by inserting '', or out of the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies'' after ''tax-exempt interest''.

(2) Clause (iii) of section 805(a)(4)(D) is amended by striking ''and'' and inserting '', the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies, and''.

(3) Subparagraph (B) of section 807(a)(2) is amended by striking ''interest,'' and inserting ''interest and the amount of the policyholder's share of the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies,''.

(4) Subparagraph (B) of section 807(b)(1) is amended by striking ''interest,'' and inserting ''interest and the amount of the policyholder's share of the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies,''.

(5) Paragraph (1) of section 812(d) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) the increase for any taxable year in the policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies.''.

(6) Subparagraph (B) of section 832(b)(5) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', and'', and by adding at the end the following new clause:

''(iii) the increase for the taxable year in policy cash values (within the meaning of section 264(e)(3)(A)) of life insurance policies and annuity and endowment contracts to which section 264(e) applies.''.

(c) CONFORMING AMENDMENT.—Subparagraph (A) of section 265(b)(4) is amended by inserting '', section 264,'' before ''and section 291''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts issued after June 8, 1997, in taxable years ending after such date. For purposes of the preceding sentence, any material increase in the death benefit or other material change in the contract shall be treated as a new contract but the addition of covered lives shall be treated as a new contract only with respect to such additional covered lives. For purposes of this subsection, an increase in the death benefit under a policy or contract issued in connection with a lapse described in section 501(d)(2) of the Health Insurance Portability and Accountability Act of 1996 shall not be treated as a new contract.

SEC. 874. ALLOCATION OF BASIS AMONG PROPERTIES DISTRIBUTED BY PARTNERSHIP.

(a) IN GENERAL.—Subsection (c) of section 732 is amended to read as follows:

''(c) ALLOCATION OF BASIS.—

''(1) IN GENERAL.—The basis of distributed properties to which subsection (a)(2) or (b) is applicable shall be allocated—

''(A)(i) first to any unrealized receivables (as defined in section 751(c)) and inventory items (as defined in section 751(d)(2)) in an amount equal to the adjusted basis of each such property to the partnership, and

''(ii) if the basis to be allocated is less than the sum of the adjusted bases of such properties to the partnership, then, to the extent any decrease is required in order to have the adjusted bases of such properties equal the basis to be allocated, in the manner provided in paragraph (3), and

''(B) to the extent of any basis not allocated under subparagraph (A), to other distributed properties—

''(i) first by assigning to each such other property such other property's adjusted basis to the partnership, and

''(ii) then, to the extent any increase or decrease in basis is required in order to have the adjusted bases of such other distributed properties equal such remaining basis, in the manner provided in paragraph (2) or (3), whichever is appropriate.

''(2) METHOD OF ALLOCATING INCREASE.—Any increase required under paragraph (1)(B) shall be allocated among the properties—

''(A) first to properties with unrealized appreciation in proportion to their respective amounts of unrealized appreciation before such increase (but only to the extent of each property's unrealized appreciation), and

''(B) then, to the extent such increase is not allocated under subparagraph (A), in proportion to their respective fair market values.

''(3) METHOD OF ALLOCATING DECREASE.—Any decrease required under paragraph (1)(A) or (1)(B) shall be allocated—

''(A) first to properties with unrealized depreciation in proportion to their respective amounts of unrealized depreciation before such decrease (but only to the extent of each property's unrealized depreciation), and

''(B) then, to the extent such decrease is not allocated under subparagraph (A), in proportion to their respective adjusted bases (as adjusted under subparagraph (A)).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

SEC. 875. REPEAL OF REQUIREMENT THAT INVENTORY BE SUBSTANTIALLY APPRECIATED.

(a) IN GENERAL.—Paragraph (2) of section 751(a) is amended to read as follows:

''(2) inventory items of the partnership,''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 751 is amended to read as follows:

''(d) INVENTORY ITEMS.—For purposes of this subchapter, the term 'inventory items' means—

''(1) property of the partnership of the kind described in section 1221(1),

''(2) any other property of the partnership which, on sale or exchange by the partnership, would be considered property other than a capital asset and other than property described in section 1231,

''(3) any other property of the partnership which, if sold or exchanged by the partnership, would result in a gain taxable under subsection (a) of section 1246 (relating to gain on foreign investment company stock), and

''(4) any other property held by the partnership which, if held by the selling or distributee partner, would be considered property of the type described in paragraph (1), (2), or (3).''.

(2) Sections 724(d)(2), 731(a)(2)(B), 731(c)(6), 732(c)(1)(A) (as amended by the preceding section), 735(a)(2), and 735(c)(1) are each amended by striking ''section 751(d)(2)'' and inserting ''section 751(d)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales, exchanges, and distributions after the date of the enactment of this Act.

SEC. 876. LIMITATION ON PROPERTY FOR WHICH INCOME FORECAST METHOD MAY BE USED.

(a) LIMITATION.—Subsection (g) of section 167 is amended by adding at the end the following new paragraph:

''(6) LIMITATION ON PROPERTY FOR WHICH INCOME FORECAST METHOD MAY BE USED.—The depreciation deduction allowable under this section may be determined under the income forecast method or any similar method only with respect to—

''(A) property described in paragraph (3) or (4) of section 168(f),

''(B) copyrights,

''(C) books,

''(D) patents, and

''(E) other property specified in regulations.

Such methods may not be used with respect to any amortizable section 197 intangible (as defined in section 197(c)).''.

(b) DEPRECIATION PERIOD FOR RENT-TO-OWN PROPERTY.—

(1) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to 3-year property) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', and'', and by adding at the end the following new clause:

''(iii) any qualified rent-to-own property.''.

(2) 4-YEAR CLASS LIFE.—The table contained in section 168(g)(3)(B) is amended by inserting before the first item the following new item:

''(A)(iii) ..... 4''.

(3) DEFINITION OF QUALIFIED RENT-TO-OWN PROPERTY.—Subsection (i) of section 168 is amended by adding at the end the following new paragraph:

''(14) QUALIFIED RENT-TO-OWN PROPERTY.—

''(A) IN GENERAL.—The term 'qualified rent-to-own property' means property held by a rent-to-own dealer for purposes of being subject to a rent-to-own contract.

''(B) RENT-TO-OWN DEALER.—The term 'rent-to-own dealer' means a person that, in the ordinary course of business, regularly enters into rent-to-own contracts with customers for the use of consumer property, if a substantial portion of those contracts terminate and the property is returned to such person before the receipt of all payments required to transfer ownership of the property from such person to the customer.

''(C) CONSUMER PROPERTY.—The term 'consumer property' means tangible personal property of a type generally used within the home. Such term shall not include cellular telephones and any computer or peripheral equipment (as defined in section 168(i)).

''(D) RENT-TO-OWN CONTRACT.—The term 'rent-to-own contract' means any lease for the use of consumer property between a rent-to-own dealer and a customer who is an individual which—

''(i) is titled 'Rent-to-Own Agreement' or 'Lease Agreement with Ownership Option,' or uses other similar language,

''(ii) provides for level, regular periodic payments (for a payment period which is a week or month),

''(iii) provides that legal title to such property remains with the rent-to-own dealer until the customer makes all the payments described in clause (ii) or early purchase payments required under the contract to acquire legal title to the item of property,

''(iv) provides a beginning date and a maximum period of time for which the contract may be in effect that does not exceed 156 weeks or 36 months from such beginning date (including renewals or options to extend),

''(v) provides for level payments within the 156-week or 36-month period that, in the aggregate, generally exceed the normal retail price of the consumer property plus interest,

''(vi) provides for payments under the contract that, in the aggregate, do not exceed $10,000 per item of consumer property,

''(vii) provides that the customer does not have any legal obligation to make all the payments referred to in clause (ii) set forth under the contract, and that at the end of each payment period the customer may either continue to use the consumer property by making the payment for the next payment period or return such property to the rent-to-own dealer in good working order, in which case the customer does not incur any further obligations under the contract and is not entitled to a return of any payments previously made under the contract, and

''(viii) provides that the customer has no right to sell, sublease, mortgage, pawn, pledge, encumber, or otherwise dispose of the consumer property until all the payments stated in the contract have been made.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 877. EXPANSION OF REQUIREMENT THAT INVOLUNTARILY CONVERTED PROPERTY BE REPLACED WITH PROPERTY ACQUIRED FROM AN UNRELATED PERSON.

(a) IN GENERAL.—Subsection (i) of section 1033 is amended to read as follows:

''(i) REPLACEMENT PROPERTY MUST BE ACQUIRED FROM UNRELATED PERSON IN CERTAIN CASES.—

''(1) IN GENERAL.—If the property which is involuntarily converted is held by a taxpayer to which this subsection applies, subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period applicable under subsection (a)(2)(B).

''(2) TAXPAYERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

''(A) a C corporation,

''(B) a partnership in which 1 or more C corporations own, directly or indirectly (determined in accordance with section 707(b)(3)), more than 50 percent of the capital interest, or profits interest, in such partnership at the time of the involuntary conversion, and

''(C) any other taxpayer if, with respect to property which is involuntarily converted during the taxable year, the aggregate of the amount of realized gain on such property on which there is realized gain exceeds $100,000.

In the case of a partnership, subparagraph (C) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

''(3) RELATED PERSON.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after June 8, 1997.

SEC. 878. TREATMENT OF EXCEPTION FROM INSTALLMENT SALES RULES FOR SALES OF PROPERTY BY A MANUFACTURER TO A DEALER.

(a) IN GENERAL.—Paragraph (2) of section 811(c) of the Tax Reform Act of 1986 is hereby repealed.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning more than 1 year after the date of the enactment of this Act.

(2) COORDINATION WITH SECTION 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such changes shall be treated as initiated by the taxpayer,

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

(C) the net amount of the adjustments required to be taken into account under section 481(a) of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4 taxable year period beginning with the first taxable year beginning after the date of the enactment of this Act.

SEC. 879. MINIMUM PENSION ACCRUED BENEFIT DISTRIBUTABLE WITHOUT CONSENT INCREASED TO $5,000.

(a) AMENDMENT TO 1986 CODE.—

(1) IN GENERAL.—Subparagraph (A) of section 411(a)(11) (relating to restrictions on certain mandatory distributions) is amended by striking ''$3,500'' and inserting ''the applicable limit''.

(2) APPLICABLE LIMIT.—Paragraph (11) of section 411(a) is amended by adding at the end the following new subparagraph:

''(D) APPLICABLE LIMIT.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the applicable limit is $5,000.

''(ii) INFLATION ADJUSTMENT.—In the case of plan years beginning in a calendar year after 1997, the dollar amount contained in clause (i) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 411(a)(7)(B), paragraphs (1) and (2) of section 417(e), and section 457(e)(9) are each amended by striking ''$3,500'' each place it appears (other than the headings) and inserting ''the applicable limit under section 411(a)(11)(D)''.

(B) The headings for paragraphs (1) and (2) of section 417(e) and subparagraph (A) of section 457(e)(9) are each amended by striking ''$3,500'' and inserting ''APPLICABLE LIMIT''.

(b) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Section 203(e)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(e)(1)) is amended by striking ''$3,500'' and inserting ''the applicable limit under section 411(a)(11) of the Internal Revenue Code of 1986 for the plan year''.

(2) CONFORMING AMENDMENTS.—Sections 204(d)(1) and 205(g) (1) and (2) (29 U.S.C. 1054(d)(1) and 1055(g) (1) and (2)) are each amended by striking ''$3,500'' and inserting ''the applicable limit under section 411(a)(11) of the Internal Revenue Code of 1986 for the plan year''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 880. ELECTION TO RECEIVE TAXABLE CASH COMPENSATION IN LIEU OF NONTAXABLE PARKING BENEFITS.

(a) IN GENERAL.—Section 132(f)(4) (relating to benefits not in lieu of compensation) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to any qualified parking provided in lieu of compensation which otherwise would have been includible in gross income of the employee, and no amount shall be included in the gross income of the employee solely because the employee may choose between the qualified parking and compensation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 881. EXTENSION OF TEMPORARY UNEMPLOYMENT TAX.

Section 3301 (relating to rate of unemployment tax) is amended—

(1) by striking ''1998'' in paragraph (1) and inserting ''2007'', and

(2) by striking ''1999'' in paragraph (2) and inserting ''2008''.

SEC. 882. REPEAL OF EXCESS DISTRIBUTION AND EXCESS RETIREMENT ACCUMULATION TAX.

(a) REPEAL OF EXCESS DISTRIBUTION AND EXCESS RETIREMENT ACCUMULATION TAX.—Section 4980A (relating to excess distributions from qualified retirement plans) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 691(c)(1) is amended by striking subparagraph (C).

(2) Section 2013 is amended by striking subsection (g).

(3) Section 2053(c)(1)(B) is amended by striking the last sentence.

(4) Section 6018(a) is amended by striking paragraph (4).

(c) EFFECTIVE DATES.—

(1) EXCESS DISTRIBUTION TAX REPEAL.—Except as provided in paragraph (2), the repeal made by subsection (a) shall apply to excess distributions received after December 31, 1996.

(2) EXCESS RETIREMENT ACCUMULATION TAX REPEAL.—The repeal made by subsection (a) with respect to section 4980A(d) of the Internal Revenue Code of 1986 and the amendments made by subsection (b) shall apply to estates of decedents dying after December 31, 1996.

SEC. 883. LIMITATION ON CHARITABLE REMAINDER TRUST ELIGIBILITY FOR CERTAIN TRUSTS.

(a) IN GENERAL.—Paragraphs (1)(A) and (2)(A) of section 664(d) (relating to charitable remainder annuity trust) are each amended by inserting ''nor more than 50 percent'' after ''not less than 5 percent''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in trust after June 18, 1997.

SEC. 884. INCREASE IN TAX ON PROHIBITED TRANSACTIONS.

(a) IN GENERAL.—Section 4975(a) is amended by striking ''10 percent'' and inserting ''15 percent''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to prohibited transactions occurring after the date of the enactment of this Act.

SEC. 885. BASIS RECOVERY RULES FOR ANNUITIES OVER MORE THAN ONE LIFE.

(a) IN GENERAL.—Section 72(d)(1)(B) is amended by adding at the end the following new clause:

''(iv) NUMBER OF ANTICIPATED PAYMENTS WHERE MORE THAN ONE LIFE.—If the annuity is payable over the lives of more than 1 individual, the number of anticipated payments shall be determined as follows:

''If the combined ages of annuitants are:	The number is:
Not more than 110	410
More than 110 but not more than 120	360
More than 120 but not more than 130	310
More than 130 but not more than 140	260
More than 140	210.''.

(b) CONFORMING AMENDMENT.—Section 72(d)(1)(B)(iii) is amended—

(1) by inserting ''If the annuity is payable over the life of a single individual, the number of anticipated payments shall be determined as follows:'' after the heading and before the table, and

(2) by striking ''primary'' in the table.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to annuity starting dates beginning after December 31, 1997.

TITLE IX—FOREIGN-RELATED SIMPLIFICATION PROVISIONS

Subtitle A—General Provisions

SEC. 901. CERTAIN INDIVIDUALS EXEMPT FROM FOREIGN TAX CREDIT LIMITATION.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) CERTAIN INDIVIDUALS EXEMPT.—

''(1) IN GENERAL.—In the case of an individual to whom this subsection applies for any taxable year—

''(A) the limitation of subsection (a) shall not apply,

''(B) no taxes paid or accrued by the individual during such taxable year may be deemed paid or accrued under subsection (c) in any other taxable year, and

''(C) no taxes paid or accrued by the individual during any other taxable year may be deemed paid or accrued under subsection (c) in such taxable year.

''(2) INDIVIDUALS TO WHOM SUBSECTION APPLIES.—This subsection shall apply to an individual for any taxable year if—

''(A) the entire amount of such individual's gross income for the taxable year from sources without the United States consists of qualified passive income,

''(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year does not exceed $300 ($600 in the case of a joint return), and

''(C) such individual elects to have this subsection apply for the taxable year.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) QUALIFIED PASSIVE INCOME.—The term 'qualified passive income' means any item of gross income if—

''(i) such item of income is passive income (as defined in subsection (d)(2)(A) without regard to clause (iii) thereof), and

''(ii) such item of income is shown on a payee statement furnished to the individual.

''(B) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means any taxes for which a credit is allowable under section 901; except that such term shall not include any tax unless such tax is shown on a payee statement furnished to such individual.

''(C) PAYEE STATEMENT.—The term 'payee statement' has the meaning given to such term by section 6724(d)(2).

''(D) ESTATES AND TRUSTS NOT ELIGIBLE.—This subsection shall not apply to any estate or trust.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 902. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES.

(a) ACCRUED TAXES TRANSLATED BY USING AVERAGE RATE FOR YEAR TO WHICH TAXES RELATE.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to translation of foreign taxes) is amended to read as follows:

''(a) FOREIGN INCOME TAXES.—

''(1) TRANSLATION OF ACCRUED TAXES.—

''(A) IN GENERAL.—For purposes of determining the amount of the foreign tax credit, in the case of a taxpayer who takes foreign income taxes into account when accrued, the amount of any foreign income taxes (and any adjustment thereto) shall be translated into dollars by using the average exchange rate for the taxable year to which such taxes relate.

''(B) EXCEPTION FOR CERTAIN TAXES.—Subparagraph (A) shall not apply to any foreign income taxes—

''(i) paid after the date 2 years after the close of the taxable year to which such taxes relate, or

''(ii) paid before the beginning of the taxable year to which such taxes relate.

''(C) EXCEPTION FOR INFLATIONARY CURRENCIES.—Subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any inflationary currency (as determined under regulations).

''(D) CROSS REFERENCE.—

''For adjustments where tax is not paid within 2 years, see section 905(c).

''(2) TRANSLATION OF TAXES TO WHICH PARAGRAPH (1) DOES NOT APPLY.—For purposes of determining the amount of the foreign tax credit, in the case of any foreign income taxes to which subparagraph (A) of paragraph (1) does not apply—

''(A) such taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

''(B) any adjustment to the amount of such taxes shall be translated into dollars using—

''(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

''(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of the original payment of such foreign income taxes.

''(3) FOREIGN INCOME TAXES.—For purposes of this subsection, the term 'foreign income taxes' means any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States.''.

(2) ADJUSTMENT WHEN NOT PAID WITHIN 2 YEARS AFTER YEAR TO WHICH TAXES RELATE.—Subsection (c) of section 905 is amended to read as follows:

''(c) ADJUSTMENTS TO ACCRUED TAXES.—

''(1) IN GENERAL.—If—

''(A) accrued taxes when paid differ from the amounts claimed as credits by the taxpayer,

''(B) accrued taxes are not paid before the date 2 years after the close of the taxable year to which such taxes relate, or

''(C) any tax paid is refunded in whole or in part,

the taxpayer shall notify the Secretary, who shall redetermine the amount of the tax for the year or years affected. The Secretary may prescribe adjustments to the pools of post-1986 foreign income taxes under sections 902 and 960 in lieu of the redetermination under the preceding sentence.

''(2) SPECIAL RULE FOR TAXES NOT PAID WITHIN 2 YEARS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), in making the redetermination under paragraph (1), no credit shall be allowed for accrued taxes not paid before the date referred to in subparagraph (B) of paragraph (1).

''(B) TAXES SUBSEQUENTLY PAID.—Any such taxes if subsequently paid—

''(i) shall be taken into account—

''(I) in the case of taxes deemed paid under section 902 or section 960, for the taxable year in which paid (and no redetermination shall be made under this section by reason of such payment), and

''(II) in any other case, for the taxable year to which such taxes relate, and

''(ii) shall be translated as provided in section 986(a)(2)(A).

''(3) ADJUSTMENTS.—The amount of tax (if any) due on any redetermination under paragraph (1) shall be paid by the taxpayer on notice and demand by the Secretary, and the amount of tax overpaid (if any) shall be credited or refunded to the taxpayer in accordance with subchapter B of chapter 66 (section 6511 et seq.).

''(4) BOND REQUIREMENTS.—In the case of any tax accrued but not paid, the Secretary, as a condition precedent to the allowance of the credit provided in this subpart, may require the taxpayer to give a bond, with sureties satisfactory to and approved by the Secretary, in such sum as the Secretary may require, conditioned on the payment by the taxpayer of any amount of tax found due on any such redetermination. Any such bond shall contain such further conditions as the Secretary may require.

''(5) OTHER SPECIAL RULES.—In any redetermination under paragraph (1) by the Secretary of the amount of tax due from the taxpayer for the year or years affected by a refund, the amount of the taxes refunded for which credit has been allowed under this section shall be reduced by the amount of any tax described in section 901 imposed by the foreign country or possession of the United States with respect to such refund; but no credit under this subpart, or deduction under section 164, shall be allowed for any taxable year with respect to any such tax imposed on the refund. No interest shall be assessed or collected on any amount of tax due on any redetermination by the Secretary, resulting from a refund to the taxpayer, for any period before the receipt of such refund, except to the extent interest was paid by the foreign country or possession of the United States on such refund for such period.''.

(b) AUTHORITY TO USE AVERAGE RATES.—

(1) IN GENERAL.—Subsection (a) of section 986 (as amended by subsection (a)) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

''(3) AUTHORITY TO PERMIT USE OF AVERAGE RATES.—To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustment is paid may be used instead of the exchange rate as of the time of such payment.''.

(2) DETERMINATION OF AVERAGE RATES.—Subsection (c) of section 989 is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end thereof the following new paragraph:

''(6) setting forth procedures for determining the average exchange rate for any period.''.

(3) CONFORMING AMENDMENTS.—Subsection (b) of section 989 is amended by striking ''weighted'' each place it appears.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a)(1) and (b) shall apply to taxes paid or accrued in taxable years beginning after December 31, 1997.

(2) SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall apply to taxes which relate to taxable years beginning after December 31, 1997.

SEC. 903. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 59 (relating to alternative minimum tax foreign tax credit) is amended by adding at the end thereof the following new paragraph:

''(3) ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION.—

''(A) IN GENERAL.—In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

''(i) subparagraph (B) of paragraph (1) shall not apply, and

''(ii) the limitation of section 904 shall be based on the proportion which—

''(I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

''(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

''(B) ELECTION.—

''(i) IN GENERAL.—An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1997, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

''(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 904. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES.

(a) GENERAL RULE.—Subsection (e) of section 988 (relating to application to individuals) is amended to read as follows:

''(e) APPLICATION TO INDIVIDUALS.—

''(1) IN GENERAL.—The preceding provisions of this section shall not apply to any section 988 transaction entered into by an individual which is a personal transaction.

''(2) EXCLUSION FOR CERTAIN PERSONAL TRANSACTIONS.—If—

''(A) nonfunctional currency is disposed of by an individual in any transaction, and

''(B) such transaction is a personal transaction,

no gain shall be recognized for purposes of this subtitle by reason of changes in exchange rates after such currency was acquired by such individual and before such disposition. The preceding sentence shall not apply if the gain which would otherwise be recognized on the transaction exceeds $200.

''(3) PERSONAL TRANSACTIONS.—For purposes of this subsection, the term 'personal transaction' means any transaction entered into by an individual, except that such term shall not include any transaction to the extent that expenses properly allocable to such transaction meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle B—Treatment of Controlled Foreign Corporations

SEC. 911. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) GENERAL RULE.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

''(e) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.—

''(1) IN GENERAL.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

''(2) SAME COUNTRY EXCEPTION NOT APPLICABLE.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1).

''(3) CLARIFICATION OF DEEMED SALES.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock.''.

(b) AMENDMENT OF SECTION 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking ''and except as provided in regulations, the taxpayer was a United States shareholder in such corporation''.

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act.

SEC. 912. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DETERMINING PRO RATA SHARE.—

(1) IN GENERAL.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end thereof the following new sentence: ''For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—

(1) IN GENERAL.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end thereof the following new subsection:

''(c) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1997.

(c) CLARIFICATION OF TREATMENT OF BRANCH TAX EXEMPTIONS OR REDUCTIONS.—

(1) IN GENERAL.—Subsection (b) of section 952 is amended by adding at the end thereof the following new sentence: ''For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

SEC. 913. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR CERTAIN LOWER TIER COMPANIES.

(a) SECTION 902 CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 902 (relating to deemed taxes increased in case of certain 2nd and 3rd tier foreign corporations) is amended to read as follows:

''(b) DEEMED TAXES INCREASED IN CASE OF CERTAIN LOWER TIER CORPORATIONS.—

''(1) IN GENERAL.—If—

''(A) any foreign corporation is a member of a qualified group, and

''(B) such foreign corporation owns 10 percent or more of the voting stock of another member of such group from which it receives dividends in any taxable year,

such foreign corporation shall be deemed to have paid the same proportion of such other member's post-1986 foreign income taxes as would be determined under subsection (a) if such foreign corporation were a domestic corporation.

''(2) QUALIFIED GROUP.—For purposes of paragraph (1), the term 'qualified group' means—

''(A) the foreign corporation described in subsection (a), and

''(B) any other foreign corporation if—

''(i) the domestic corporation owns at least 5 percent of the voting stock of such other foreign corporation indirectly through a chain of foreign corporations connected through stock ownership of at least 10 percent of their voting stock,

''(ii) the foreign corporation described in subsection (a) is the first tier corporation in such chain, and

''(iii) such other corporation is not below the sixth tier in such chain.

The term 'qualified group' shall not include any foreign corporation below the third tier in the chain referred to in clause (i) unless such foreign corporation is a controlled foreign corporation (as defined in section 957) and the domestic corporation is a United States shareholder (as defined in section 951(b)) in such foreign corporation. Paragraph (1) shall apply to those taxes paid by a member of the qualified group below the third tier only with respect to periods during which it was a controlled foreign corporation.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 902(c)(3) is amended by adding ''or'' at the end of clause (i) and by striking clauses (ii) and (iii) and inserting the following new clause:

''(ii) the requirements of subsection (b)(2) are met with respect to such foreign corporation.''.

(B) Subparagraph (B) of section 902(c)(4) is amended by striking ''3rd foreign corporation'' and inserting ''sixth tier foreign corporation''.

(C) The heading for paragraph (3) of section 902(c) is amended by striking ''WHERE DOMESTIC CORPORATION ACQUIRES 10 PERCENT OF FOREIGN CORPORATION'' and inserting ''WHERE FOREIGN CORPORATION FIRST QUALIFIES''.

(D) Paragraph (3) of section 902(c) is amended by striking ''ownership'' each place it appears.

(b) SECTION 960 CREDIT.—Paragraph (1) of section 960(a) (relating to special rules for foreign tax credits) is amended to read as follows:

''(1) DEEMED PAID CREDIT.—For purposes of subpart A of this part, if there is included under section 951(a) in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, then, except to the extent provided in regulations, section 902 shall be applied as if the

amount so included were a dividend paid by such foreign corporation (determined by applying section 902(c) in accordance with section 904(d)(3)(B)).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of enactment of this Act.

(2) SPECIAL RULE.—In the case of any chain of foreign corporations described in clauses (i) and (ii) of section 902(b)(2)(B) of the Internal Revenue Code of 1986 (as amended by this section), no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of the enactment of this Act shall have the effect of permitting taxes to be taken into account under section 902 of the Internal Revenue Code of 1986 which could not have been taken into account under such section but for such transaction.

Subtitle C—Repeal of Excise Tax on Transfers to Foreign Entities

SEC. 921. REPEAL OF EXCISE TAX ON TRANSFERS TO FOREIGN ENTITIES; RECOGNITION OF GAIN ON CERTAIN TRANSFERS TO FOREIGN TRUSTS AND ESTATES.

(a) REPEAL OF EXCISE TAX.—Chapter 5 (relating to transfers to avoid income tax) is hereby repealed.

(b) RECOGNITION OF GAIN ON CERTAIN TRANSFERS TO FOREIGN TRUSTS AND ESTATES.—Subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new section:

''SEC. 684. RECOGNITION OF GAIN ON CERTAIN TRANSFERS TO CERTAIN FOREIGN TRUSTS AND ESTATES.

''(a) IN GENERAL.—Except as provided in regulations, in the case of any transfer of property by a United States person to a foreign estate or trust, for purposes of this subtitle, such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

''(1) the fair market value of the property so transferred, over

''(2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor.

''(b) EXCEPTION.—Subsection (a) shall not apply to a transfer to a trust by a United States person to the extent that any person is treated as the owner of such trust under section 671.''.

(b) OTHER ANTI-AVOIDANCE PROVISIONS REPLACING REPEALED EXCISE TAX.—

(1) GAIN RECOGNITION ON EXCHANGES INVOLVING FOREIGN PERSONS.—Section 1035 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) EXCHANGES INVOLVING FOREIGN PERSONS.—To the extent provided in regulations, subsection (a) shall not apply to any exchange having the effect of transferring property to any person other than a United States person.''.

(2) TRANSFERS TO FOREIGN CORPORATIONS.—Section 367 is amended by adding at the end the following new subsection:

''(f) OTHER TRANSFERS.—To the extent provided in regulations, if a United States person transfers property to a foreign corporation as paid-in surplus or as a contribution to capital (in a transaction not otherwise described in this section), such foreign corporation shall not, for purposes of determining the extent to which gain shall be recognized on such transfer, be considered to be a corporation.''.

(3) CERTAIN TRANSFERS TO PARTNERSHIPS.—Section 721 is amended by adding at the end the following new subsection:

''(c) REGULATIONS RELATING TO CERTAIN TRANSFERS TO PARTNERSHIPS.—The Secretary may provide by regulations that subsection (a) shall not apply to gain realized on the transfer of property to a partnership if such gain, when recognized, will be includible in the gross income of a person other than a United States person.''.

(4) REPEAL OF UNITED STATES SOURCE TREATMENT OF DEEMED ROYALTIES.—Subparagraph (C) of section 367(d)(2) is amended to read as follows:

''(C) AMOUNTS RECEIVED TREATED AS ORDINARY INCOME.—For purposes of this chapter, any amount included in gross income by reason of this subsection shall be treated as ordinary income.''.

(5) TRANSFERS OF INTANGIBLES TO PARTNERSHIPS.—

(A) Subsection (d) of section 367 is amended by adding at the end the following new paragraph:

''(3) REGULATIONS RELATING TO TRANSFERS OF INTANGIBLES TO PARTNERSHIPS.—The Secretary may provide by regulations that the rules of paragraph (2) also apply to the transfer of intangible property by a United States person to a partnership in circumstances consistent with the purposes of this subsection.''.

(B) Section 721 is amended by adding at the end the following new subsection:

''(d) TRANSFERS OF INTANGIBLES.—

''For regulatory authority to treat intangibles transferred to a partnership as sold, see section 367(d)(3).''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (h) of section 814 is amended by striking ''or 1491''.

(2) Section 1057 (relating to election to treat transfer to foreign trust, etc., as taxable exchange) is hereby repealed.

(3) Section 6422 is amended by striking paragraph (5) and by redesignating paragraphs (6) through (13) as paragraphs (5) through (12), respectively.

(4) The table of chapters for subtitle A is amended by striking the item relating to chapter 5.

(5) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1057.

(6) The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new item:

''Sec. 684. Recognition of gain on certain transfers to certain foreign trusts and estates.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle D—Information Reporting

SEC. 931. CLARIFICATION OF APPLICATION OF RETURN REQUIREMENT TO FOREIGN PARTNERSHIPS.

(a) IN GENERAL.—Section 6031 (relating to return of partnership income) is amended by adding at the end the following new subsection:

''(e) FOREIGN PARTNERSHIPS.—

''(1) EXCEPTION FOR FOREIGN PARTNERSHIP.—Except as provided in paragraph (2), the preceding provisions of this section shall not apply to a foreign partnership.

''(2) CERTAIN FOREIGN PARTNERSHIPS REQUIRED TO FILE RETURN.—Except as provided in regulations prescribed by the Secretary, this section shall apply to a foreign partnership for any taxable year if for such year, such partnership has—

''(A) gross income derived from sources within the United States, or

''(B) gross income which is effectively connected with the conduct of a trade or business within the United States.

The Secretary may provide simplified filing procedures for foreign partnerships to which this section applies.''.

(b) SANCTION FOR FAILURE BY FOREIGN PARTNERSHIP TO COMPLY WITH SECTION 6031 TO INCLUDE DENIAL OF DEDUCTIONS.—Subsection (f) of section 6231 is amended—

(1) by striking ''LOSSES AND'' in the heading and inserting ''DEDUCTIONS, LOSSES, AND'', and

(2) by striking ''loss or'' each place it appears and inserting ''deduction, loss, or''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 932. CONTROLLED FOREIGN PARTNERSHIPS SUBJECT TO INFORMATION REPORTING COMPARABLE TO INFORMATION REPORTING FOR CONTROLLED FOREIGN CORPORATIONS.

(a) IN GENERAL.—So much of section 6038 (relating to information with respect to certain foreign corporations) as precedes paragraph (2) of subsection (a) is amended to read as follows:

''SEC. 6038. INFORMATION REPORTING WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS AND PARTNERSHIPS.

''(a) REQUIREMENT.—

''(1) IN GENERAL.—Every United States person shall furnish, with respect to any foreign business entity which such person controls, such information as the Secretary may prescribe relating to—

''(A) the name, the principal place of business, and the nature of business of such entity, and the country under whose laws such entity is incorporated (or organized in the case of a partnership);

''(B) in the case of a foreign corporation, its post-1986 undistributed earnings (as defined in section 902(c));

''(C) a balance sheet for such entity listing assets, liabilities, and capital;

''(D) transactions between such entity and—

''(i) such person,

''(ii) any corporation or partnership which such person controls, and

''(iii) any United States person owning, at the time the transaction takes place—

''(I) in the case of a foreign corporation, 10 percent or more of the value of any class of stock outstanding of such corporation, and

''(II) in the case of a foreign partnership, at least a 10-percent interest in such partnership; and

''(E)(i) in the case of a foreign corporation, a description of the various classes of stock outstanding, and a list showing the name and address of, and number of shares held by, each United States person who is a shareholder of record owning at any time during the annual accounting period 5 percent or more in value of any class of stock outstanding of such foreign corporation, and

''(ii) information comparable to the information described in clause (i) in the case of a foreign partnership.

The Secretary may also require the furnishing of any other information which is similar or related in nature to that specified in the preceding sentence or which the Secretary determines to be appropriate to carry out the provisions of this title.''.

(b) DEFINITIONS.—

(1) IN GENERAL.—Subsection (e) of section 6038 (relating to definitions) is amended—

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

(B) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

''(1) FOREIGN BUSINESS ENTITY.—The term 'foreign business entity' means a foreign corporation and a foreign partnership.'', and

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

''(3) PARTNERSHIP-RELATED DEFINITIONS.—

''(A) CONTROL.—A person is in control of a partnership if such person owns directly or indirectly more than a 50 percent interest in such partnership.

''(B) 50-PERCENT INTEREST.—For purposes of subparagraph (A), a 50-percent interest in a partnership is—

''(i) an interest equal to 50 percent of the capital interest, or 50 percent of the profits interest, in such partnership, or

''(ii) to the extent provided in regulations, an interest to which 50 percent of the deductions or losses of such partnership are allocated.

For purposes of the preceding sentence, rules similar to the rules of section 267(c) (other than paragraph (3)) shall apply, except so as to consider a United States person as owning such an interest which is owned by a person which is not a United States person.

''(C) 10-PERCENT INTEREST.—A 10-percent interest in a partnership is an interest which would be described in subparagraph (B) if '10 percent' were substituted for '50 percent' each place it appears.''.

(2) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 6038(e) (as so redesignated) is amended by inserting ''OF CORPORATION'' after ''CONTROL''.

(c) MODIFICATION OF SANCTIONS ON PARTNERSHIPS AND CORPORATIONS FOR FAILURE TO FURNISH INFORMATION.—

(1) IN GENERAL.—Subsection (b) of section 6038 is amended—

(A) by striking ''$1,000'' each place it appears and inserting ''$10,000'', and

(B) by striking ''$24,000'' in paragraph (2) and inserting ''$50,000''.

(d) REPORTING BY 10-PERCENT PARTNERS.—Subsection (a) of section 6038 is amended by adding at the end the following new paragraph:

''(5) INFORMATION REQUIRED FROM 10-PERCENT PARTNER OF CONTROLLED FOREIGN PARTNERSHIP.—In the case of a foreign partnership which is controlled by United States persons holding at least 10-percent interests (but not by any one United States person), the Secretary may require each United States person who holds a 10-percent interest in such partnership to furnish information relating to such partnership, including information relating to such partner's ownership interests in the partnership and allocations to such partner of partnership items.''.

(e) TECHNICAL AMENDMENTS.—

(1) The following provisions of section 6038 are each amended by striking ''foreign corporation'' each place it appears and inserting ''foreign business entity'':

(A) Paragraphs (2) and (3) of subsection (a).

(B) Subsection (b).

(C) Subsection (c) other than paragraph (1)(B) thereof.

(D) Subsection (d).

(E) Subsection (e)(4) (as redesignated by subsection (b)).

(2) Subparagraph (B) of section 6038(c)(1) is amended by inserting ''in the case of a foreign business entity which is a foreign corporation,'' after ''(B)''.

(3) Paragraph (8) of section 318(b) is amended by striking ''6038(d)(1)'' and inserting ''6038(d)(2)''.

(4) Paragraph (4) of section 901(k) is amended by striking ''foreign corporation'' and inserting ''foreign corporation or partnership''.

(5) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6038 and inserting the following new item:

''Sec. 6038. Information reporting with respect to certain foreign corporations and partnerships.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to annual accounting periods of foreign partnerships beginning after the date of the enactment of this Act.

SEC. 933. MODIFICATIONS RELATING TO RETURNS REQUIRED TO BE FILED BY REASON OF CHANGES IN OWNERSHIP INTERESTS IN FOREIGN PARTNERSHIP.

(a) NO RETURN REQUIRED UNLESS CHANGES INVOLVE 10-PERCENT INTEREST IN PARTNERSHIP.—

(1) IN GENERAL.—Subsection (a) of section 6046A (relating to returns as to interests in foreign partnerships) is amended by adding at the end the following new sentence: ''Paragraphs (1) and (2) shall apply to any acquisition or disposition only if the United States person directly or indirectly holds at least a 10-percent interest in such partnership either before or after such acquisition or disposition, and paragraph (3) shall apply to any change only if the change is equivalent to at least a 10-percent interest in such partnership.''.

(2) 10-PERCENT INTEREST.—Section 6046A is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) 10-PERCENT INTEREST.—For purposes of subsection (a), a 10-percent interest in a partnership is an interest described in section 6038(e)(3)(C).''.

(b) MODIFICATION OF PENALTY ON FAILURE TO REPORT CHANGES IN OWNERSHIP INTERESTS IN FOREIGN CORPORATIONS AND PARTNERSHIPS.—Subsection (a) of section 6679 (relating to failure to file returns, etc., with respect to foreign corporations or foreign partnerships) is amended to read as follows:

''(a) CIVIL PENALTY.—

''(1) IN GENERAL.—In addition to any criminal penalty provided by law, any person required to file a return under section 6035, 6046, or 6046A who fails to file such return at the time provided in such section, or who files a return which does not show the information required pursuant to such section, shall pay a penalty of $10,000, unless it is shown that such failure is due to reasonable cause.

''(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the United States person, such person shall pay a penalty (in addition to the amount required under paragraph (1)) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed $50,000.

''(3) REDUCED PENALTY FOR RETURNS RELATING TO FOREIGN PERSONAL HOLDING COMPANIES.—In the case of a return required under section 6035, paragraph (1) shall be applied by substituting '$1,000' for '$10,000', and paragraph (2) shall not apply.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers and changes after the date of the enactment of this Act.

SEC. 934. TRANSFERS OF PROPERTY TO FOREIGN PARTNERSHIPS SUBJECT TO INFORMATION REPORTING COMPARABLE TO INFORMATION REPORTING FOR SUCH TRANSFERS TO FOREIGN CORPORATIONS.

(a) IN GENERAL.—Paragraph (1) of section 6038B(a) (relating to notice of certain transfers to foreign corporations) is amended to read as follows:

''(1) transfers property to—

''(A) a foreign corporation in an exchange described in section 332, 351, 354, 355, 356, or 361, or

''(B) a foreign partnership in a contribution described in section 721 or in any other contribution described in regulations prescribed by the Secretary,''.

(b) EXCEPTIONS.—Section 6038B is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

''(b) EXCEPTIONS FOR CERTAIN TRANSFERS TO FOREIGN PARTNERSHIPS; SPECIAL RULE.—

''(1) EXCEPTIONS.—Subsection (a)(1)(B) shall apply to a transfer by a United States person to a foreign partnership only if—

''(A) the United States person holds (immediately after the transfer) directly or indirectly at least a 10-percent interest (as defined in section 6046A(d)) in the partnership, or

''(B) the value of the property transferred (when added to the value of the property transferred by such person or any related person to such partnership or a related partnership during the 12-month period ending on the date of the transfer) exceeds $100,000.

For purposes of the preceding sentence, the value of any transferred property is its fair market value at the time of its transfer.

''(2) SPECIAL RULE.—If by reason of an adjustment under section 482 or otherwise, a contribution described in subsection (a)(1) is deemed to have been made, such contribution shall be treated for purposes of this section as having been made not earlier than the date specified by the Secretary.''.

(c) MODIFICATION OF PENALTY APPLICABLE TO FOREIGN CORPORATIONS AND PARTNERSHIPS.—

(1) IN GENERAL.—Paragraph (1) of section 6038B(b) is amended by striking ''equal to'' and all that follows and inserting ''equal to 10 percent of the fair market value of the property at the time of the exchange (and, in the case of a contribution described in subsection (a)(1)(B), such person shall recognize gain as if the contributed property had been sold for such value at the time of such contribution).''.

(2) LIMIT ON PENALTY.—Section 6038B(b) is amended by adding at the end the following new paragraph:

''(3) LIMIT ON PENALTY.—The penalty under paragraph (1) with respect to any exchange shall not exceed $100,000 unless the failure with respect to such exchange was due to intentional disregard.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers made after the date of the enactment of this Act.

(2) ELECTION OF RETROACTIVE EFFECT.—Section 1494(c) of the Internal Revenue Code of 1986 shall not apply to any transfer after August 20, 1996, if all applicable reporting requirements under section 6038B of such Code (as amended by this section) are satisfied. The Secretary of the Treasury or his delegate may prescribe simplified reporting under the preceding sentence.

SEC. 935. EXTENSION OF STATUTE OF LIMITATION FOR FOREIGN TRANSFERS.

(a) IN GENERAL.—Paragraph (8) of section 6501(c) (relating to failure to notify Secretary under section 6038B) is amended to read as follows:

''(8) FAILURE TO NOTIFY SECRETARY OF CERTAIN FOREIGN TRANSFERS.—In the case of any information which is required to be reported to the Secretary under section 6038, 6038A, 6038B, 6046, 6046A, or 6048, the time for assessment of any tax imposed by this title with respect to any event or period to which such information relates shall not expire before the date which is 3 years after the date on which the Secretary is furnished the information required to be reported under such section.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to information the due date for the reporting of which is after the date of the enactment of this Act.

SEC. 936. INCREASE IN FILING THRESHOLDS FOR RETURNS AS TO ORGANIZATION OF FOREIGN CORPORATIONS AND ACQUISITIONS OF STOCK IN SUCH CORPORATIONS.

(a) IN GENERAL.—Subsection (a) of section 6046 (relating to returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock) is amended to read as follows:

''(a) REQUIREMENT OF RETURN.—

''(1) IN GENERAL.—A return complying with the requirements of subsection (b) shall be made by—

''(A) each United States citizen or resident who becomes an officer or director of a foreign corporation if a United States person (as defined in section 7701(a)(30)) meets the stock ownership requirements of paragraph (2) with respect to such corporation,

''(B) each United States person—

''(i) who acquires stock which, when added to any stock owned on the date of such acquisition, meets the stock ownership requirements of paragraph (2) with respect to a foreign corporation, or

''(ii) who acquires stock which, without regard to stock owned on the date of such acquisition, meets the stock ownership requirements of paragraph (2) with respect to a foreign corporation,

''(C) each person (not described in subparagraph (B)) who is treated as a United States shareholder under section 953(c) with respect to a foreign corporation, and

''(D) each person who becomes a United States person while meeting the stock ownership requirements of paragraph (2) with respect to stock of a foreign corporation.

In the case of a foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c), subparagraph (A) shall be treated as including a reference to each United States person who is an officer or director of such corporation.

''(2) STOCK OWNERSHIP REQUIREMENTS.—A person meets the stock ownership requirements of this paragraph with respect to any corporation if such person owns 10 percent or more of—

''(A) the total combined voting power of all classes of stock of such corporation entitled to vote, or

''(B) the total value of the stock of such corporation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1998.

Subtitle E—Determination of Foreign or Domestic Status of Partnerships

SEC. 941. DETERMINATION OF FOREIGN OR DOMESTIC STATUS OF PARTNERSHIPS.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) is amended by inserting before the period ''unless, in the case of a partnership, the Secretary provides otherwise by regulations''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle F—Other Simplification Provisions

SEC. 951. TRANSITION RULE FOR CERTAIN TRUSTS.

(a) IN GENERAL.—Paragraph (3) of section 1907(a) of the Small Business Job Protection Act of 1996 is amended by adding at the end the following flush sentence:

''To the extent prescribed in regulations by the Secretary of the Treasury or his delegate, a trust which was in existence on August 20, 1996 (other than a trust treated as owned by the grantor under subpart E of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1986), and which was treated as a United States person on the day before the date of the enactment of this Act may elect to continue to be treated as a United States person notwithstanding section 7701(a)(30)(E) of such Code.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 1907(a) of the Small Business Job Protection Act of 1996.

SEC. 952. REPEAL OF STOCK AND SECURITIES SAFE HARBOR REQUIREMENT THAT PRINCIPAL OFFICE BE OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—The last sentence of clause (ii) of section 864(b)(2)(A) (relating to stock or securities) is amended by striking '', or in the case of a corporation'' and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 953. MISCELLANEOUS CLARIFICATIONS.

(a) ATTRIBUTION OF DEEMED PAID FOREIGN TAXES TO PRIOR DISTRIBUTIONS.—Subparagraph (B) of section 902(c)(2) is amended by striking ''deemed paid with respect to'' and inserting ''attributable to''.

(b) FINANCIAL SERVICES INCOME DETERMINED WITHOUT REGARD TO HIGH-TAXED INCOME.—Subclause (II) of section 904(d)(2)(C)(i) is amended by striking ''subclause (I)'' and inserting ''subclauses (I) and (III)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

TITLE X—SIMPLIFICATION PROVISIONS RELATING TO INDIVIDUALS AND BUSINESSES

Subtitle A—Provisions Relating to Individuals

SEC. 1001. BASIC STANDARD DEDUCTION AND MINIMUM TAX EXEMPTION AMOUNT FOR CERTAIN DEPENDENTS.

(a) BASIC STANDARD DEDUCTION.—

(1) IN GENERAL.—Paragraph (5) of section 63(c) (relating to limitation on basic standard deduction in the case of certain dependents) is amended by striking ''shall not exceed'' and all that follows and inserting ''shall not exceed the greater of—

''(A) $500, or

''(B) the sum of $250 and such individual's earned income.''.

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 63(c) is amended—

(A) by striking ''(5)(A)'' in the material preceding subparagraph (A) and inserting ''(5)'', and

(B) by striking ''by substituting'' and all that follows in subparagraph (B) and inserting ''by substituting for 'calendar year 1992' in subparagraph (B) thereof—

''(i) 'calendar year 1987' in the case of the dollar amounts contained in paragraph (2) or (5)(A) or subsection (f), and

''(ii) 'calendar year 1997' in the case of the dollar amount contained in paragraph (5)(B).''.

(b) MINIMUM TAX EXEMPTION AMOUNT.—Subsection (j) of section 59 is amended to read as follows:

''(j) TREATMENT OF UNEARNED INCOME OF MINOR CHILDREN.—

''(1) IN GENERAL.—In the case of a child to whom section 1(g) applies, the exemption amount for purposes of section 55 shall not exceed the sum of—

''(A) such child's earned income (as defined in section 911(d)(2)) for the taxable year, plus

''(B) $5,000.

''(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1998, the dollar amount in paragraph (1)(B) shall be increased by an amount equal to the product of—

''(A) such dollar amount, and

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting '1997' for '1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1002. INCREASE IN AMOUNT OF TAX EXEMPT FROM ESTIMATED TAX REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 6654(e) (relating to exception where tax is small amount) is amended by striking ''$500'' and inserting ''$1,000''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1003. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses), as amended by title VII, is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—

''(1) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

''(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

''(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

''(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991.''.

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1004. TREATMENT OF TRAVELING EXPENSES OF CERTAIN FEDERAL EMPLOYEES ENGAGED IN CRIMINAL INVESTIGATIONS.

(a) IN GENERAL.—Subsection (o) of section 162, as added by title VII, is amended by adding at the end the following new paragraph:

''(3) TRAVELING EXPENSES OF CERTAIN FEDERAL EMPLOYEES ENGAGED IN CRIMINAL INVESTIGATIONS.—Paragraph (1) shall not apply to any Federal employee during any period for which such employee is certified by the Attorney General (or the designee thereof) as traveling on behalf of the United States in temporary duty status to investigate, or provide support services for the investigation of, a Federal crime.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid or incurred with respect to taxable years ending after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Businesses Generally

SEC. 1011. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end the following new paragraph:

''(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

''(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

''(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

''(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

''(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

''(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

''(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

''(C) DEFINITIONS.—For purposes of this paragraph—

''(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

''(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

''(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

''(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which election is made or during any subsequent taxable year.''.

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking ''the overpayment rate established by section 6621'' and inserting ''the adjusted overpayment rate (as defined in paragraph (7))''.

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end the following new paragraph:

''(7) ADJUSTED OVERPAYMENT RATE.—

''(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

''(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

''(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

''(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply for purposes of section 167(g) of the Internal Revenue Code of 1986 to property placed in service after September 13, 1995.

SEC. 1012. MINIMUM TAX TREATMENT OF CERTAIN PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Clause (i) of section 56(g)(4)(B) (relating to inclusion of items included for purposes of computing earnings and profits) is amended by adding at the end the following new sentence: ''In the case of any insurance company taxable under section 831(b), this clause shall not apply to any amount not described in section 834(b).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1997.

SEC. 1013. USE OF ESTIMATES OF SHRINKAGE FOR INVENTORY ACCOUNTING.

(a) IN GENERAL.—Section 471 (relating to general rule for inventories) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

''(b) ESTIMATES OF INVENTORY SHRINKAGE PERMITTED.—A method of determining inventories shall not be deemed not to clearly reflect income solely because it utilizes estimates of inventory shrinkage that are confirmed by a physical count only after the last day of the taxable year if—

''(1) the taxpayer normally does a physical count of inventories at each location on a regular and consistent basis, and

''(2) the taxpayer makes proper adjustments to such inventories and to its estimating methods to the extent such estimates are greater than or less than the actual shrinkage.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) COORDINATION WITH SECTION 481.—In the case of any taxpayer permitted by this section to change its method of accounting to a permissible method for any taxable year—

(A) such changes shall be treated as initiated by the taxpayer,

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

(C) the period for taking into account the adjustments under section 481 by reason of such change shall be 4 years.

SEC. 1014. QUALIFIED LESSEE CONSTRUCTION ALLOWANCES FOR SHORT-TERM LEASES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 109 the following new section:

''SEC. 110. QUALIFIED LESSEE CONSTRUCTION ALLOWANCES FOR SHORT-TERM LEASES.

''(a) IN GENERAL.—Gross income of a lessee does not include any amount received in cash (or treated as a rent reduction) by a lessee from a lessor—

''(1) under a short-term lease of retail space, and

''(2) for the purpose of such lessee's constructing or improving qualified long-term real property for use in such lessee's trade or business at such retail space,

but only to the extent that such amount does not exceed the amount expended by the lessee for such construction or improvement.

''(b) CONSISTENT TREATMENT BY LESSOR.—Qualified long-term real property constructed or improved in connection with any amount excluded from a lessee's income by reason of subsection (a) shall be treated as nonresidential real property by the lessor.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED LONG-TERM REAL PROPERTY.—The term 'qualified long-term real property' means nonresidential real property which is part of, or otherwise present at, the retail space referred to in subsection (a) and which reverts to the lessor at the termination of the lease.

''(2) SHORT-TERM LEASE.—The term 'short-term lease' means a lease (or other agreement for occupancy or use) of retail space for 15 years or less (as determined under the rules of section 168(i)(3)).

''(3) RETAIL SPACE.—The term 'retail space' means real property leased, occupied, or otherwise used by a lessee in its trade or business of selling tangible personal property or services to the general public.

''(d) INFORMATION REQUIRED TO BE FURNISHED TO SECRETARY.—Under regulations, the lessee and lessor described in subsection (a) shall, at such times and in such manner as may be provided in such regulations, furnish to the Secretary—

''(1) information concerning the amounts received (or treated as a rent reduction) and expended as described in subsection (a), and

''(2) any other information which the Secretary deems necessary to carry out the provisions of this section.''.

(b) TREATMENT AS INFORMATION RETURN.—Subparagraph (A) of section 6724(d)(1)(A) is amended by striking ''or'' at the end of clause (vii), by adding ''or'' at the end of clause (viii), and by adding at the end the following new clause:

''(ix) section 110(d) (relating to qualified lessee construction allowances for short-term leases),''.

(c) CROSS REFERENCE.—Paragraph (8) of section 168(i) (relating to treatment of leasehold improvements) is amended by adding at the end the following new subparagraph:

''(C) CROSS REFERENCE.—

''For treatment of qualified long-term real property constructed or improved in connection with cash or rent reduction from lessor to lessee, see section 110(b).''.

(d) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 109 the following new item:

''Sec. 110. Qualified lessee construction allowances for short-term leases.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to leases entered into after the date of the enactment of this Act.

Subtitle C—Simplification Relating to Electing Large Partnerships

PART I—GENERAL PROVISIONS

SEC. 1021. SIMPLIFIED FLOW-THROUGH FOR ELECTING LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subchapter K (relating to partners and partnerships) is amended by adding at the end the following new part:

''PART IV—SPECIAL RULES FOR ELECTING LARGE PARTNERSHIPS

''SEC. 771. APPLICATION OF SUBCHAPTER TO ELECTING LARGE PARTNERSHIPS.

''The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to an electing large partnership and its partners.

''SEC. 772. SIMPLIFIED FLOW-THROUGH.

''(a) GENERAL RULE.—In determining the income tax of a partner of an electing large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

''(1) taxable income or loss from passive loss limitation activities,

''(2) taxable income or loss from other activities,

''(3) net capital gain (or net capital loss)—

''(A) to the extent allocable to passive loss limitation activities, and

''(B) to the extent allocable to other activities,

''(4) tax-exempt interest,

''(5) applicable net AMT adjustment separately computed for—

''(A) passive loss limitation activities, and

''(B) other activities,

''(6) general credits,

''(7) low-income housing credit determined under section 42,

''(8) rehabilitation credit determined under section 47,

''(9) foreign income taxes,

''(10) the credit allowable under section 29, and

''(11) other items to the extent that the Secretary determines that the separate treatment of such items is appropriate.

''(b) SEPARATE COMPUTATIONS.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive

share of the items of income, gain, loss, deduction, or credit of the partnership.

''(c) TREATMENT AT PARTNER LEVEL.—

''(1) IN GENERAL.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

''(2) INCOME OR LOSS FROM PASSIVE LOSS LIMITATION ACTIVITIES.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

''(3) INCOME OR LOSS FROM OTHER ACTIVITIES.—

''(A) IN GENERAL.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

''(B) DEDUCTIONS FOR LOSS NOT SUBJECT TO SECTION 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

''(4) TREATMENT OF NET CAPITAL GAIN OR LOSS.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.

''(5) MINIMUM TAX TREATMENT.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

''(6) GENERAL CREDITS.—A partner's distributive share of the amount referred to in paragraph (6) of subsection (a) shall be taken into account as a current year business credit.

''(d) OPERATING RULES.—For purposes of this section—

''(1) PASSIVE LOSS LIMITATION ACTIVITY.—The term 'passive loss limitation activity' means—

''(A) any activity which involves the conduct of a trade or business, and

''(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).

''(2) TAX-EXEMPT INTEREST.—The term 'tax-exempt interest' means interest excludable from gross income under section 103.

''(3) APPLICABLE NET AMT ADJUSTMENT.—

''(A) IN GENERAL.—The applicable net AMT adjustment is—

''(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and

''(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.

''(B) NET ADJUSTMENT.—The term 'net adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.

''(4) TREATMENT OF CERTAIN SEPARATELY STATED ITEMS.—

''(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be), and any item referred to in subsection (a)(11), shall be excluded.

''(B) ALLOCATION RULES.—The net capital gain shall be treated—

''(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

''(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any net capital loss.

''(C) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

''(5) GENERAL CREDITS.—The term 'general credits' means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

''(6) FOREIGN INCOME TAXES.—The term 'foreign income taxes' means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

''(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

''(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS LIMITATIONS.—If any person holds an interest in an electing large partnership other than as a limited partner—

''(1) paragraph (2) of subsection (c) shall not apply to such partner, and

''(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469.

The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.

''SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

''(a) GENERAL RULE.—

''(1) TAXABLE INCOME.—The taxable income of an electing large partnership shall be computed in the same manner as in the case of an individual except that—

''(A) the items described in section 772(a) shall be separately stated, and

''(B) the modifications of subsection (b) shall apply.

''(2) ELECTIONS.—All elections affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be made by the partnership; except that the election under section 901, and any election under section 108, shall be made by each partner separately.

''(3) LIMITATIONS, ETC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be applied at the partnership level (and not at the partner level).

''(B) CERTAIN LIMITATIONS APPLIED AT PARTNER LEVEL.—The following provisions shall be applied at the partner level (and not at the partnership level):

''(i) Section 68 (relating to overall limitation on itemized deductions).

''(ii) Sections 49 and 465 (relating to at risk limitations).

''(iii) Section 469 (relating to limitation on passive activity losses and credits).

''(iv) Any other provision specified in regulations.

''(4) COORDINATION WITH OTHER PROVISIONS.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

''(b) MODIFICATIONS TO DETERMINATION OF TAXABLE INCOME.—In determining the taxable income of an electing large partnership—

''(1) CERTAIN DEDUCTIONS NOT ALLOWED.—The following deductions shall not be allowed:

''(A) The deduction for personal exemptions provided in section 151.

''(B) The net operating loss deduction provided in section 172.

''(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

''(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

''(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

''(c) SPECIAL RULES FOR INCOME FROM DISCHARGE OF INDEBTEDNESS.—If an electing large partnership has income from the discharge of any indebtedness—

''(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

''(2) in determining the income tax of any partner of such partnership—

''(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

''(B) the provisions of section 108 shall be applied without regard to this part.

''SEC. 774. OTHER MODIFICATIONS.

''(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS, ETC.—In the case of an electing large partnership—

''(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

''(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

''(b) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—

''(1) IN GENERAL.—In the case of an electing large partnership—

''(A) any credit recapture shall be taken into account by the partnership, and

''(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

''(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—An electing large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

''(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.—No credit recapture shall be required by reason of any transfer of an interest in an electing large partnership.

''(4) CREDIT RECAPTURE.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).

''(c) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to an electing large partnership.

''(d) PARTNERSHIP ENTITLED TO CERTAIN CREDITS.—The following shall be allowed to an electing large partnership and shall not be taken into account by the partners of such partnership:

''(1) The credit provided by section 34.

''(2) Any credit or refund under section 852(b)(3)(D).

''(e) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any electing large partnership—

''(1) all interests in such partnership shall be treated as held by disqualified organizations,

''(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and

''(3) subparagraph (D) of section 860E(e)(6) shall not apply.

''(f) SPECIAL RULES FOR APPLYING CERTAIN INSTALLMENT SALE RULES.—In the case of an electing large partnership—

''(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and

''(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.

''SEC. 775. ELECTING LARGE PARTNERSHIP DEFINED.

''(a) GENERAL RULE.—For purposes of this part—

''(1) IN GENERAL.—The term 'electing large partnership' means, with respect to any partnership taxable year, any partnership if—

''(A) the number of persons who were partners in such partnership in the preceding partnership taxable year equaled or exceeded 100, and

''(B) such partnership elects the application of this part.

To the extent provided in regulations, a partnership shall cease to be treated as an electing large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

''(2) ELECTION.—The election under this subsection shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

''(b) SPECIAL RULES FOR CERTAIN SERVICE PARTNERSHIPS.—

''(1) CERTAIN PARTNERS NOT COUNTED.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

''(2) EXCLUSION.—For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership if substantially all the partners of such partnership—

''(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

''(B) are retired partners who had performed such substantial services, or

''(C) are spouses of partners who are performing (or had previously performed) such substantial services.

''(3) SPECIAL RULE FOR LOWER TIER PARTNERSHIPS.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

''(c) EXCLUSION OF COMMODITY POOLS.—For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

''(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as an electing large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

''SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

''(a) COMPUTATION OF PERCENTAGE DEPLETION.—In the case of an electing large partnership, except as provided in subsection (b)—

''(1) the allowance for depletion under section 611 with respect to any partnership oil or gas property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

''(2) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without regard to paragraph (1) of section 613A(d), and

''(3) paragraph (3) of section 705(a) shall not apply.

''(b) TREATMENT OF CERTAIN PARTNERS.—

''(1) IN GENERAL.—In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

''(2) DISQUALIFIED PERSON.—For purposes of paragraph (1), the term 'disqualified person' means, with respect to any partnership taxable year—

''(A) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

''(B) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

''(3) AVERAGE DAILY PRODUCTION.—For purposes of paragraph (2), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

''(A) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

''(B) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

''(C) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

''SEC. 777. REGULATIONS.

''The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part.''.

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end the following new item:

''Part IV. Special rules for electing large partnerships.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1997.

SEC. 1022. SIMPLIFIED AUDIT PROCEDURES FOR ELECTING LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Chapter 63 is amended by adding at the end thereof the following new subchapter:

''Subchapter D—Treatment of electing large partnerships

''PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

''SEC. 6240. APPLICATION OF SUBCHAPTER.

''(a) GENERAL RULE.—This subchapter shall only apply to electing large partnerships and partners in such partnerships.

''(b) COORDINATION WITH OTHER PARTNERSHIP AUDIT PROCEDURES.—

''(1) IN GENERAL.—Subchapter C of this chapter shall not apply to any electing large partnership other than in its capacity as a partner in another partnership which is not an electing large partnership.

''(2) TREATMENT WHERE PARTNER IN OTHER PARTNERSHIP.—If an electing large partnership is a partner in another partnership which is not an electing large partnership—

''(A) subchapter C of this chapter shall apply to items of such electing large partnership which are partnership items with respect to such other partnership, but

''(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

''SEC. 6241. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN.

''(a) GENERAL RULE.—A partner of any electing large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

''(b) UNDERPAYMENT DUE TO INCONSISTENT TREATMENT ASSESSED AS MATH ERROR.—Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

''(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR OF PARTNERS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

''(2) CERTAIN CHANGES IN DISTRIBUTIVE SHARE TAKEN INTO ACCOUNT BY PARTNER.—

''(A) IN GENERAL.—To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

''(B) COORDINATION WITH DEFICIENCY PROCEDURES.—

''(i) IN GENERAL.—Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

''(ii) ADJUSTMENT NOT PRECLUDED.—Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

''(C) PERIOD OF LIMITATIONS.—The period for—

''(i) assessing any underpayment of tax, or

''(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

''(D) TIERED STRUCTURES.—If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this

paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is an electing large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

''(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

''For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

''SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP ADJUSTMENTS INTO ACCOUNT.

''(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

''(1) IN GENERAL.—If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

''(2) PARTNERSHIP LIABLE IN CERTAIN CASES.—If—

''(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

''(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

''(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (C).

''(3) OFFSETTING ADJUSTMENTS TAKEN INTO ACCOUNT.—If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

''(4) COORDINATION WITH PART II.—Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

''(b) PARTNERSHIP LIABLE FOR INTEREST AND PENALTIES.—

''(1) IN GENERAL.—If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

''(A) shall pay to the Secretary interest computed under paragraph (2), and

''(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

''(2) DETERMINATION OF AMOUNT OF INTEREST.—The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

''(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment,

''(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

''(3) PENALTIES.—A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

''(4) IMPUTED UNDERPAYMENT.—For purposes of this subsection, the imputed underpayment determined under this paragraph with respect to any partnership adjustment is the underpayment (if any) which would result—

''(A) by netting all adjustments to items of income, gain, loss, or deduction and by treating any net increase in income as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, and

''(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

''(c) ADMINISTRATIVE PROVISIONS.—

''(1) IN GENERAL.—Any payment required by subsection (a)(2) or (b)(1)(A)—

''(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

''(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

''(2) INTEREST.—For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as an underpayment of tax.

''(3) PENALTIES.—

''(A) IN GENERAL.—In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by subsection (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

''(B) ACCURACY-RELATED AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) shall be treated as an underpayment of tax.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) PARTNERSHIP ADJUSTMENT.—The term 'partnership adjustment' means any adjustment in the amount of any partnership item of an electing large partnership.

''(2) WHEN ADJUSTMENT TAKES EFFECT.—A partnership adjustment takes effect—

''(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

''(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

''(C) in any other case, when such adjustment is made.

''(3) ADJUSTED YEAR.—The term 'adjusted year' means the partnership taxable year to which the item being adjusted relates.

''(4) RETURN DUE DATE.—The term 'return due date' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

''(5) ADJUSTMENTS INVOLVING CHANGES IN CHARACTER.—Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

''(e) PAYMENTS NONDEDUCTIBLE.—No deduction shall be allowed under subtitle A for any payment required to be made by an electing large partnership under this section.

''PART II—PARTNERSHIP LEVEL ADJUSTMENTS

''Subpart A—Adjustments by Secretary

''SEC. 6245. SECRETARIAL AUTHORITY.

''(a) GENERAL RULE.—The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

''(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

''(1) IN GENERAL.—If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known address even if the partnership has terminated its existence.

''(2) FURTHER NOTICES RESTRICTED.—If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

''(3) AUTHORITY TO RESCIND NOTICE WITH PARTNERSHIP CONSENT.—The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

''SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUSTMENTS.

''(a) GENERAL RULE.—Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

''(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

''(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

''(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin

any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

''(c) EXCEPTIONS TO RESTRICTIONS ON ADJUSTMENTS.—

''(1) ADJUSTMENTS ARISING OUT OF MATH OR CLERICAL ERRORS.—

''(A) IN GENERAL.—If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

''(B) SPECIAL RULE.—If an electing large partnership is a partner in another electing large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

''(2) PARTNERSHIP MAY WAIVE RESTRICTIONS.—The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

''(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

"SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUSTMENT.

''(a) GENERAL RULE.—Within 90 days after the date on which a notice of a partnership adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

''(1) the Tax Court,

''(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

''(3) the Claims Court.

''(b) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

''(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) (as of the date of the filing of the petition) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

''(2) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

''(c) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such items among the partners (and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under section 6242(b)).

''(d) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

''(e) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUSTMENTS.

''(a) GENERAL RULE.—Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any partnership taxable year may be made after the date which is 3 years after the later of—

''(1) the date on which the partnership return for such taxable year was filed, or

''(2) the last day for filing such return for such year (determined without regard to extensions).

''(b) EXTENSION BY AGREEMENT.—The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

''(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

''(1) FALSE RETURN.—In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

''(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

''(3) NO RETURN.—In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

''(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

''(d) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

''(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and

''(2) for 1 year thereafter.

"Subpart B—Claims for Adjustments by Partnership

"SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.

''(a) GENERAL RULE.—A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

''(1) within 3 years after the later of—

''(A) the date on which the partnership return for such year is filed, or

''(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

''(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

''(b) SECRETARIAL ACTION.—If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

''(c) SPECIAL RULE IN CASE OF EXTENSION UNDER SECTION 6248.—If the period described in section 6248(a) is extended pursuant to an agreement under section 6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

"SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

''(a) IN GENERAL.—If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

''(1) the Tax Court,

''(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

''(3) the Claims Court.

''(b) PERIOD FOR FILING PETITION.—A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

''(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

''(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

''(c) COORDINATION WITH SUBPART A.—

''(1) NOTICE OF PARTNERSHIP ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

''(2) NOTICE OF PARTNERSHIP ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

''(3) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

''(d) SCOPE OF JUDICIAL REVIEW.—Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

''(e) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"PART III—DEFINITIONS AND SPECIAL RULES

"SEC. 6255. DEFINITIONS AND SPECIAL RULES.

''(a) DEFINITIONS.—For purposes of this subchapter—

''(1) ELECTING LARGE PARTNERSHIP.—The term 'electing large partnership' has the meaning given to such term by section 775.

''(2) PARTNERSHIP ITEM.—The term 'partnership item' has the meaning given to such term by section 6231(a)(3).

''(b) PARTNERS BOUND BY ACTIONS OF PARTNERSHIP, ETC.—

''(1) DESIGNATION OF PARTNER.—Each electing large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have the sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any partner as the partner with such authority.

''(2) BINDING EFFECT.—An electing large partnership and all partners of such partnership shall be bound—

''(A) by actions taken under this subchapter by the partnership, and

''(B) by any decision in a proceeding brought under this subchapter.

''(c) PARTNERSHIPS HAVING PRINCIPAL PLACE OF BUSINESS OUTSIDE THE UNITED STATES.—For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

''(d) TREATMENT WHERE PARTNERSHIP CEASES TO EXIST.—If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

''(e) DATE DECISION BECOMES FINAL.—For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

''(f) PARTNERSHIPS IN CASES UNDER TITLE 11 OF THE UNITED STATES CODE.—The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

''(1) for adjustment or assessment, 60 days thereafter, and

''(2) for collection, 6 months thereafter.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

''(1) to prevent abuse through manipulation of the provisions of this subchapter, and

''(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply.''.

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following new item:

''SUBCHAPTER D. Treatment of electing large partnerships.''.

SEC. 1023. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF ELECTING LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (b) of section 6031 (relating to copies to partners) is amended by adding at the end the following new sentence: ''In the case of an electing large partnership (as defined in section 775), such information shall be furnished on or before the first March 15 following the close of such taxable year.''.

(b) TREATMENT AS INFORMATION RETURN.—Section 6724 is amended by adding at the end the following new subsection:

''(e) SPECIAL RULE FOR CERTAIN PARTNERSHIP RETURNS.—If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return.''.

SEC. 1024. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end thereof the following new sentence:

''Notwithstanding the preceding sentence, the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media.''.

SEC. 1025. TREATMENT OF PARTNERSHIP ITEMS OF INDIVIDUAL RETIREMENT ACCOUNTS.

Subsection (b) of section 6012 is amended by adding at the end thereof the following new paragraph:

''(6) IRA SHARE OF PARTNERSHIP INCOME.—In the case of a trust which is exempt from taxation under section 408(e), for purposes of this section, the trust's distributive share of items of gross income and gain of any partnership to which subchapter C or D of chapter 63 applies shall be treated as equal to the trust's distributive share of the taxable income of such partnership.''.

SEC. 1026. EFFECTIVE DATE.

The amendments made by this part shall apply to partnership taxable years ending on or after December 31, 1997.

PART II—PROVISIONS RELATED TO TEFRA PARTNERSHIP PROCEEDINGS

SEC. 1031. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.

(a) IN GENERAL.—Subchapter C of chapter 63 is amended by adding at the end the following new section:

''SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.

''(a) GENERAL RULE.—If—

''(1) a taxpayer files an oversheltered return for a taxable year,

''(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

''(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

''(b) OVERSHELTERED RETURN.—For purposes of this section, the term 'oversheltered return' means an income tax return which—

''(1) shows no taxable income for the taxable year, and

''(2) shows a net loss from partnership items.

''(c) JUDICIAL REVIEW IN THE TAX COURT.—Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates, in accordance with the principles of section 6214(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

''(d) FAILURE TO FILE PETITION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

''(2) EXCEPTION.—Paragraph (1) shall not apply after the date that the taxpayer—

''(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

''(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

''(e) LIMITATIONS PERIOD.—

''(1) IN GENERAL.—Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

''(2) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

''(3) RESTRICTIONS ON ASSESSMENT.—Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

''(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

''(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

''(f) FURTHER NOTICES OF ADJUSTMENT RESTRICTED.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

''(g) COORDINATION WITH OTHER PROCEEDINGS UNDER THIS SUBCHAPTER.—

''(1) IN GENERAL.—The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other

law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

''(2) SPECIAL RULE IN CASE OF COMPUTATIONAL ADJUSTMENT.—In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

''(3) CONVERSION TO DEFICIENCY PROCEEDING.—If—

''(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

''(B) as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment,

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

''(4) FINALLY DETERMINED.—For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

''(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

''(B) a notice of final partnership administrative adjustment has been issued and—

''(i) no petition has been filed under section 6226 and the time for doing so has expired, or

''(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

''(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

''(h) SPECIAL RULES IF SECRETARY INCORRECTLY DETERMINES APPLICABLE PROCEDURE.—

''(1) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF ADJUSTMENT.—If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

''(2) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF DEFICIENCY.—If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c).''.

(b) TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.—Section 6211 (defining deficiency) is amended by adding at the end the following new subsection:

''(c) COORDINATION WITH SUBCHAPTER C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapter C.''.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 63 is amended by adding at the end the following new item:

''Sec. 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1032. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED.

(a) IN GENERAL.—Section 6231 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

''(g) PARTNERSHIP RETURN TO BE DETERMINATIVE OF WHETHER SUBCHAPTER APPLIES.—

''(1) DETERMINATION THAT SUBCHAPTER APPLIES.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.

''(2) DETERMINATION THAT SUBCHAPTER DOES NOT APPLY.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1033. PROVISIONS RELATING TO STATUTE OF LIMITATIONS.

(a) SUSPENSION OF STATUTE WHERE UNTIMELY PETITION FILED.—Paragraph (1) of section 6229(d) (relating to suspension where Secretary makes administrative adjustment) is amended by striking all that follows ''section 6226'' and inserting the following: ''(and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and''.

(b) SUSPENSION OF STATUTE DURING BANKRUPTCY PROCEEDING.—Section 6229 is amended by adding at the end the following new subsection:

''(h) SUSPENSION DURING PENDENCY OF BANKRUPTCY PROCEEDING.—If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

''(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

''(2) for 60 days thereafter.''.

(c) TAX MATTERS PARTNER IN BANKRUPTCY.—Section 6229(b) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) SPECIAL RULE WITH RESPECT TO DEBTORS IN TITLE 11 CASES.—Notwithstanding any other law or rule of law, if an agreement is entered into under paragraph (1)(B) and the agreement is signed by a person who would be the tax matters partner but for the fact that, at the time that the agreement is executed, the person is a debtor in a bankruptcy proceeding under title 11 of the United States Code, such agreement shall be binding on all partners in the partnership unless the Secretary has been notified of the bankruptcy proceeding in accordance with regulations prescribed by the Secretary.''.

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to partnership taxable years with respect to which the period under section 6229 of the Internal Revenue Code of 1986 for assessing tax has not expired on or before the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 1034. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.

(a) IN GENERAL.—Clause (i) of section 6231(a)(1)(B) (relating to exception for small partnerships) is amended to read as follows:

''(i) IN GENERAL.—The term 'partnership' shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1035. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1-YEAR LIMITATION ON ASSESSMENT.

(a) IN GENERAL.—Subsection (f) of section 6229 (relating to items becoming nonpartnership items) is amended—

(1) by striking ''(f) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If'' and inserting the following:

''(f) SPECIAL RULES.—

''(1) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If'',

(2) by moving the text of such subsection 2 ems to the right, and

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

''(2) SPECIAL RULE FOR PARTIAL SETTLEMENT AGREEMENTS.—If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

SEC. 1036. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT.

(a) IN GENERAL.—Section 6227 (relating to administrative adjustment requests) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

''(b) SPECIAL RULE IN CASE OF EXTENSION OF PERIOD OF LIMITATIONS UNDER SECTION 6229.—The period prescribed by subsection (a)(1) for filing of a request for an administrative adjustment shall be extended—

''(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

''(2) for 6 months thereafter.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 1037. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS.

(a) IN GENERAL.—Subsection (a) of section 6230 is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE IN CASE OF ASSERTION BY PARTNER'S SPOUSE OF INNOCENT SPOUSE RELIEF.—

''(A) Notwithstanding section 6404(b), if the spouse of a partner asserts that section 6013(e)

applies with respect to a liability that is attributable to any adjustment to a partnership item, then such spouse may file with the Secretary within 60 days after the notice of computational adjustment is mailed to the spouse a request for abatement of the assessment specified in such notice. Upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by subchapter B. The period for making any such reassessment shall not expire before the expiration of 60 days after the date of such abatement.

''(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to the request for abatement described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

''(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph.''.

(b) CLAIMS FOR REFUND.—Subsection (c) of section 6230 is amended by adding at the end the following new paragraph:

''(5) RULES FOR SEEKING INNOCENT SPOUSE RELIEF.—

''(A) IN GENERAL.—The spouse of a partner may file a claim for refund on the ground that the Secretary failed to relieve the spouse under section 6013(e) from a liability that is attributable to an adjustment to a partnership item.

''(B) TIME FOR FILING CLAIM.—Any claim under subparagraph (A) shall be filed within 6 months after the day on which the Secretary mails to the spouse the notice of computational adjustment referred to in subsection (a)(3)(A).

''(C) SUIT IF CLAIM NOT ALLOWED.—If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

''(D) PRIOR DETERMINATIONS ARE BINDING.—For purposes of any claim or suit under this paragraph, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.''.

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6230(a) is amended by striking ''paragraph (2)'' and inserting ''paragraph (2) or (3)''.

(2) Subsection (a) of section 6503 is amended by striking ''section 6230(a)(2)(A)'' and inserting ''paragraph (2)(A) or (3) of section 6230(a)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 1038. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL.

(a) IN GENERAL.—Section 6221 (relating to tax treatment determined at partnership level) is amended by striking ''item'' and inserting ''item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 6226 is amended—

(A) by striking ''relates and'' and inserting ''relates,'', and

(B) by inserting before the period '', and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item''.

(2) Clause (i) of section 6230(a)(2)(A) is amended to read as follows:

''(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or''.

(3)(A) Subparagraph (A) of section 6230(a)(3), as added by section 14317, is amended by inserting ''(including any liability for any penalty, addition to tax, or additional amount relating to such adjustment)'' after ''partnership item''.

(B) Subparagraph (B) of such section is amended by inserting ''(and the applicability of any penalties, additions to tax, or additional amounts)'' after ''partnership items''.

(C) Subparagraph (A) of section 6230(c)(5), as added by section 14317, is amended by inserting before the period ''(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)''.

(D) Subparagraph (D) of section 6230(c)(5), as added by section 14317, is amended by inserting ''(and the applicability of any penalties, additions to tax, or additional amounts)'' after ''partnership items''.

(4) Paragraph (1) of section 6230(c) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by adding at the end the following new subparagraph:

''(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item.''.

(5) So much of subparagraph (A) of section 6230(c)(2) as precedes ''shall be filed'' is amended to read as follows:

''(A) UNDER PARAGRAPH (1) (A) OR (C).—Any claim under subparagraph (A) or (C) of paragraph (1)''.

(6) Paragraph (4) of section 6230(c) is amended by adding at the end the following: ''In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive. Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1039. PROVISIONS RELATING TO COURT JURISDICTION, ETC.

(a) TAX COURT JURISDICTION TO ENJOIN PREMATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225 is amended by striking ''the proper court.'' and inserting ''the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition.''.

(b) JURISDICTION TO CONSIDER STATUTE OF LIMITATIONS WITH RESPECT TO PARTNERS.—Paragraph (1) of section 6226(d) is amended by adding at the end the following new sentence:

''Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action (or file a readjustment petition under subsection (b) or paragraph (2) of this subsection) solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action shall have jurisdiction to consider such assertion.''.

(c) TAX COURT JURISDICTION TO DETERMINE OVERPAYMENTS ATTRIBUTABLE TO AFFECTED ITEMS.—

(1) Paragraph (6) of section 6230(d) is amended by striking ''(or an affected item)''.

(2) Paragraph (3) of section 6512(b) is amended by adding at the end the following new sentence:

''In the case of a credit or refund relating to an affected item (within the meaning of section 6231(a)(5)), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d).''.

(d) VENUE ON APPEAL.—

(1) Paragraph (1) of section 7482(b) is amended by striking ''or'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', or'', and by inserting after subparagraph (E) the following new subparagraph:

''(F) in the case of a petition under section 6234(c)—

''(i) the legal residence of the petitioner if the petitioner is not a corporation, and

''(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation.''.

(2) The last sentence of section 7482(b)(1) is amended by striking ''or 6228(a)'' and inserting '', 6228(a), or 6234(c)''.

(e) OTHER PROVISIONS.—

(1) Subsection (c) of section 7459 is amended by striking ''or section 6228(a)'' and inserting '', 6228(a), or 6234(c)''.

(2) Subsection (o) of section 6501 is amended by adding at the end the following new paragraph:

''(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, see section 6234.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 1040. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS.

(a) IN GENERAL.—Subsection (b) of section 6226 (relating to judicial review of final partnership administrative adjustments) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) TREATMENT OF PREMATURE PETITIONS.—If—

''(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

''(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to petitions filed after the date of the enactment of this Act.

SEC. 1041. BONDS IN CASE OF APPEALS FROM CERTAIN PROCEEDING.

(a) IN GENERAL.—Subsection (b) of section 7485 (relating to bonds to stay assessment of collection) is amended—

(1) by inserting ''penalties,'' after ''any interest,'', and

(2) by striking ''aggregate of such deficiencies'' and inserting ''aggregate liability of the parties to the action''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 1042. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM CERTAIN SETTLEMENTS.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of

tax) is amended by adding at the end the following new sentence: ''In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to adjustments with respect to partnership taxable years beginning after the date of the enactment of this Act.

SEC. 1043. SPECIAL RULES FOR ADMINISTRATIVE ADJUSTMENT REQUESTS WITH RESPECT TO BAD DEBTS OR WORTHLESS SECURITIES.

(a) GENERAL RULE.—Section 6227 (relating to administrative adjustment requests) is amended by adding at the end the following new subsection:

''(e) REQUESTS WITH RESPECT TO BAD DEBTS OR WORTHLESS SECURITIES.—In the case of that portion of any request for an administrative adjustment which relates to the deductibility by the partnership under section 166 of a debt as a debt which became worthless, or under section 165(g) of a loss from worthlessness of a security, the period prescribed in subsection (a)(1) shall be 7 years from the last day for filing the partnership return for the year with respect to which such request is made (determined without regard to extensions).''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

(2) TREATMENT OF REQUESTS FILED BEFORE DATE OF ENACTMENT.—In the case of that portion of any request (filed before the date of the enactment of this Act) for an administrative adjustment which relates to the deductibility of a debt as a debt which became worthless or the deductibility of a loss from the worthlessness of a security—

(A) paragraph (2) of section 6227(a) of the Internal Revenue Code of 1986 shall not apply,

(B) the period for filing a petition under section 6228 of the Internal Revenue Code of 1986 with respect to such request shall not expire before the date 6 months after the date of the enactment of this Act, and

(C) such a petition may be filed without regard to whether there was a notice of the beginning of an administrative proceeding or a final partnership administrative adjustment.

PART III—PROVISION RELATING TO CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER, ETC.

SEC. 1046. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER, ETC.

(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

''(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise).''.

(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

''(2) TREATMENT OF DISPOSITIONS.—''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1997.

Subtitle D—Provisions Relating to Real Estate Investment Trusts

SEC. 1051. CLARIFICATION OF LIMITATION ON MAXIMUM NUMBER OF SHAREHOLDERS.

(a) RULES RELATING TO DETERMINATION OF OWNERSHIP.—

(1) FAILURE TO ISSUE SHAREHOLDER DEMAND LETTER NOT TO DISQUALIFY REIT.—Section 857(a) (relating to requirements applicable to real estate investment trusts) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) SHAREHOLDER DEMAND LETTER REQUIREMENT; PENALTY.—Section 857 (relating to taxation of real estate investment trusts and their beneficiaries) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) REAL ESTATE INVESTMENT TRUSTS TO ASCERTAIN OWNERSHIP.—

''(1) IN GENERAL.—Each real estate investment trust shall each taxable year comply with regulations prescribed by the Secretary for the purposes of ascertaining the actual ownership of the outstanding shares, or certificates of beneficial interest, of such trust.

''(2) FAILURE TO COMPLY.—

''(A) IN GENERAL.—If a real estate investment trust fails to comply with the requirements of paragraph (1) for a taxable year, such trust shall pay (on notice and demand by the Secretary and in the same manner as tax) a penalty of $25,000.

''(B) INTENTIONAL DISREGARD.—If any failure under paragraph (1) is due to intentional disregard of the requirement under paragraph (1), the penalty under subparagraph (A) shall be $50,000.

''(C) FAILURE TO COMPLY AFTER NOTICE.—The Secretary may require a real estate investment trust to take such actions as the Secretary determines appropriate to ascertain actual ownership if the trust fails to meet the requirements of paragraph (1). If the trust fails to take such actions, the trust shall pay (on notice and demand by the Secretary and in the same manner as tax) an additional penalty equal to the penalty determined under subparagraph (A) or (B), whichever is applicable.

''(D) REASONABLE CAUSE.—No penalty shall be imposed under this paragraph with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.''.

(b) COMPLIANCE WITH CLOSELY HELD PROHIBITION.—

(1) IN GENERAL.—Section 856 (defining real estate investment trust) is amended by adding at the end the following new subsection:

''(k) REQUIREMENT THAT ENTITY NOT BE CLOSELY HELD TREATED AS MET IN CERTAIN CASES.—A corporation, trust, or association—

''(1) which for a taxable year meets the requirements of section 857(f)(1), and

''(2) which does not know, or exercising reasonable diligence would not have known, whether the entity failed to meet the requirement of subsection (a)(6),

shall be treated as having met the requirement of subsection (a)(6) for the taxable year.''.

(2) CONFORMING AMENDMENT.—Paragraph (6) of section 856(a) is amended by inserting ''subject to the provisions of subsection (k),'' before ''which is not''.

SEC. 1052. DE MINIMIS RULE FOR TENANT SERVICES INCOME.

(a) IN GENERAL.—Paragraph (2) of section 856(d) (defining rents from real property) is amended by striking subparagraph (C) and the last sentence and inserting:

''(C) any impermissible tenant service income (as defined in paragraph (7)).''.

(b) IMPERMISSIBLE TENANT SERVICE INCOME.—Section 856(d) is amended by adding at the end the following new paragraph:

''(7) IMPERMISSIBLE TENANT SERVICE INCOME.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—The term 'impermissible tenant service income' means, with respect to any real or personal property, any amount received or accrued directly or indirectly by the real estate investment trust for—

''(i) services furnished or rendered by the trust to the tenants of such property, or

''(ii) managing or operating such property.

''(B) DISQUALIFICATION OF ALL AMOUNTS WHERE MORE THAN DE MINIMIS AMOUNT.—If the amount described in subparagraph (A) with respect to a property for any taxable year exceeds 1 percent of all amounts received or accrued during such taxable year directly or indirectly by the real estate investment trust with respect to such property, the impermissible tenant service income of the trust with respect to the property shall include all such amounts.

''(C) EXCEPTIONS.—For purposes of subparagraph (A)—

''(i) services furnished or rendered, or management or operation provided, through an independent contractor from whom the trust itself does not derive or receive any income shall not be treated as furnished, rendered, or provided by the trust, and

''(ii) there shall not be taken into account any amount which would be excluded from unrelated business taxable income under section 512(b)(3) if received by an organization described in section 511(a)(2).

''(D) AMOUNT ATTRIBUTABLE TO IMPERMISSIBLE SERVICES.—For purposes of subparagraph (A), the amount treated as received for any service (or management or operation) shall not be less than 150 percent of the direct cost of the trust in furnishing or rendering the service (or providing the management or operation).

''(E) COORDINATION WITH LIMITATIONS.—For purposes of paragraphs (2) and (3) of subsection (c), amounts described in subparagraph (A) shall be included in the gross income of the corporation, trust, or association.''.

SEC. 1053. ATTRIBUTION RULES APPLICABLE TO TENANT OWNERSHIP.

Section 856(d)(5) (relating to constructive ownership of stock) is amended by adding at the end the following: ''For purposes of paragraph (2)(B), section 318(a)(3)(A) shall be applied under the preceding sentence in the case of a partnership by taking into account only partners who own (directly or indirectly) 25 percent or more of the capital interest, or the profits interest, in the partnership.''.

SEC. 1054. CREDIT FOR TAX PAID BY REIT ON RETAINED CAPITAL GAINS.

(a) GENERAL RULE.—Paragraph (3) of section 857(b) (relating to capital gains) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) TREATMENT BY SHAREHOLDERS OF UNDISTRIBUTED CAPITAL GAINS.—

''(i) Every shareholder of a real estate investment trust at the close of the trust's taxable year shall include, in computing his long-term capital gains in his return for his taxable year in which the last day of the trust's taxable year falls, such amount as the trust shall designate in respect of such shares in a written notice mailed to its shareholders at any time prior to the expiration of 60 days after the close of its taxable year (or mailed to its shareholders or holders of beneficial interests with its annual report for the taxable year), but the amount so includible by any shareholder shall not exceed that part of the amount subjected to tax in subparagraph (A)(ii) which he would have received if all of such amount had been distributed as capital gain dividends by the trust to the holders of such shares at the close of its taxable year.

''(ii) For purposes of this title, every such shareholder shall be deemed to have paid, for his taxable year under clause (i), the tax imposed by subparagraph (A)(ii) on the amounts required by this subparagraph to be included in respect of such shares in computing his long-term capital gains for that year; and such shareholders shall be allowed credit or refund as the case may be, for the tax so deemed to have been paid by him.

''(iii) The adjusted basis of such shares in the hands of the holder shall be increased with respect to the amounts required by this subparagraph to be included in computing his long-term

capital gains, by the difference between the amount of such includible gains and the tax deemed paid by such shareholder in respect of such shares under clause (ii).

''(iv) In the event of such designation, the tax imposed by subparagraph (A)(ii) shall be paid by the real estate investment trust within 30 days after the close of its taxable year.

''(v) The earnings and profits of such real estate investment trust, and the earnings and profits of any such shareholder which is a corporation, shall be appropriately adjusted in accordance with regulations prescribed by the Secretary.

''(vi) As used in this subparagraph, the terms 'shares' and 'shareholders' shall include beneficial interests and holders of beneficial interests, respectively.''.

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 857(b)(7)(A) is amended by striking ''subparagraph (B)'' and inserting ''subparagraph (B) or (D)''.

(2) Clause (iii) of section 852(b)(3)(D) is amended by striking ''by 65 percent'' and all that follows and inserting ''by the difference between the amount of such includible gains and the tax deemed paid by such shareholder in respect of such shares under clause (ii).''.

SEC. 1055. REPEAL OF 30-PERCENT GROSS INCOME REQUIREMENT.

(a) GENERAL RULE.—Subsection (c) of section 856 (relating to limitations) is amended—

(1) by adding ''and'' at the end of paragraph (3),

(2) by striking paragraphs (4) and (8), and

(3) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (G) of section 856(c)(5), as redesignated by subsection (a), is amended by striking ''and such agreement shall be treated as a security for purposes of paragraph (4)(A)''.

(2) Paragraph (5) of section 857(b) is amended by striking ''section 856(c)(7)'' and inserting ''section 856(c)(6)''.

(3) Subparagraph (C) of section 857(b)(6) is amended by striking ''section 856(c)(6)(B)'' and inserting ''section 856(c)(5)(B)''.

SEC. 1056. MODIFICATION OF EARNINGS AND PROFITS RULES FOR DETERMINING WHETHER REIT HAS EARNINGS AND PROFITS FROM NON-REIT YEAR.

Subsection (d) of section 857 is amended by adding at the end the following new paragraph:

''(3) DISTRIBUTIONS TO MEET REQUIREMENTS OF SUBSECTION (a)(2)(B).—Any distribution which is made in order to comply with the requirements of subsection (a)(2)(B)—

''(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from the earliest accumulated earnings and profits (other than earnings and profits to which subsection (a)(2)(A) applies) rather than the most recently accumulated earnings and profits, and

''(B) to the extent treated under subparagraph (A) as made from accumulated earnings and profits, shall not be treated as a distribution for purposes of subsection (b)(2)(B).''.

SEC. 1057. TREATMENT OF FORECLOSURE PROPERTY.

(a) GRACE PERIODS.—

(1) INITIAL PERIOD.—Paragraph (2) of section 856(e) (relating to special rules for foreclosure property) is amended by striking ''on the date which is 2 years after the date the trust acquired such property'' and inserting ''as of the close of the 3d taxable year following the taxable year in which the trust acquired such property''.

(2) EXTENSION.—Paragraph (3) of section 856(e) is amended—

(A) by striking ''or more extensions'' and inserting ''extension'', and

(B) by striking the last sentence and inserting: ''Any such extension shall not extend the grace period beyond the close of the 3d taxable year following the last taxable year in the period under paragraph (2).''.

(b) REVOCATION OF ELECTION.—Paragraph (5) of section 856(e) is amended by striking the last sentence and inserting: ''A real estate investment trust may revoke any such election for a taxable year by filing the revocation (in the manner provided by the Secretary) on or before the due date (including any extension of time) for filing its return of tax under this chapter for the taxable year. If a trust revokes an election for any property, no election may be made by the trust under this paragraph with respect to the property for any subsequent taxable year.''.

(c) CERTAIN ACTIVITIES NOT TO DISQUALIFY PROPERTY.—Paragraph (4) of section 856(e) is amended by adding at the end the following new flush sentence:

''For purposes of subparagraph (C), property shall not be treated as used in a trade or business by reason of any activities of the real estate investment trust with respect to such property to the extent that such activities would not result in amounts received or accrued, directly or indirectly, with respect to such property being treated as other than rents from real property.''.

SEC. 1058. PAYMENTS UNDER HEDGING INSTRUMENTS.

Section 856(c)(5)(G) (relating to treatment of certain interest rate agreements), as redesignated by section 1255, is amended to read as follows:

''(G) TREATMENT OF CERTAIN HEDGING INSTRUMENTS.—Except to the extent provided by regulations, any—

''(i) payment to a real estate investment trust under an interest rate swap or cap agreement, option, futures contract, forward rate agreement, or any similar financial instrument, entered into by the trust in a transaction to reduce the interest rate risks with respect to any indebtedness incurred or to be incurred by the trust to acquire or carry real estate assets, and

''(ii) gain from the sale or other disposition of any such investment,

shall be treated as income qualifying under paragraph (2).''.

SEC. 1059. EXCESS NONCASH INCOME.

Section 857(e)(2) (relating to determination of amount of excess noncash income) is amended—

(1) by striking subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting a comma,

(3) by redesignating subparagraph (C) (as amended by paragraph (2)) as subparagraph (B), and

(4) by adding at the end the following new subparagraphs:

''(C) the amount (if any) by which—

''(i) the amounts includible in gross income with respect to instruments to which section 860E(a) or 1272 applies, exceed

''(ii) the amount of money and the fair market value of other property received during the taxable year under such instruments, and

''(D) amounts includible in income by reason of cancellation of indebtedness.''.

SEC. 1060. PROHIBITED TRANSACTION SAFE HARBOR.

Clause (iii) of section 857(b)(6)(C) (relating to certain sales not to constitute prohibited transactions) is amended by striking ''(other than foreclosure property)'' in subclauses (I) and (II) and inserting ''(other than sales of foreclosure property or sales to which section 1033 applies)''.

SEC. 1061. SHARED APPRECIATION MORTGAGES.

(a) BANKRUPTCY SAFE HARBOR.—Section 856(j) (relating to treatment of shared appreciation mortgages) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) COORDINATION WITH 4-YEAR HOLDING PERIOD.—

''(A) IN GENERAL.—For purposes of section 857(b)(6)(C), if a real estate investment trust is treated as having sold secured property under paragraph (3)(A), the trust shall be treated as having held such property for at least 4 years if—

''(i) the secured property is sold or otherwise disposed of pursuant to a case under title 11 of the United States Code,

''(ii) the seller is under the jurisdiction of the court in such case, and

''(iii) the disposition is required by the court or is pursuant to a plan approved by the court.

''(B) EXCEPTION.—Subparagraph (A) shall not apply if—

''(i) the secured property was acquired by the trust with the intent to evict or foreclose, or

''(ii) the trust knew or had reason to know that default on the obligation described in paragraph (5)(A) would occur.''.

(b) CLARIFICATION OF DEFINITION OF SHARED APPRECIATION PROVISION.—Clause (ii) of section 856(j)(5)(A) is amended by inserting before the period ''or appreciation in value as of any specified date''.

SEC. 1062. WHOLLY OWNED SUBSIDIARIES.

Section 856(i)(2) (defining qualified REIT subsidiary) is amended by striking ''at all times during the period such corporation was in existence''.

SEC. 1063. EFFECTIVE DATE.

The amendments made by this part shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle E—Provisions Relating to Regulated Investment Companies

SEC. 1071. REPEAL OF 30-PERCENT GROSS INCOME LIMITATION.

(a) GENERAL RULE.—Subsection (b) of section 851 (relating to limitations) is amended by striking paragraph (3), by adding ''and'' at the end of paragraph (2), and by redesignating paragraph (4) as paragraph (3).

(b) TECHNICAL AMENDMENTS.—

(1) The material following paragraph (3) of section 851(b) (as redesignated by subsection (a)) is amended—

(A) by striking out ''paragraphs (2) and (3)'' and inserting ''paragraph (2)'', and

(B) by striking out the last sentence thereof.

(2) Subsection (c) of section 851 is amended by striking ''subsection (b)(4)'' each place it appears (including the heading) and inserting ''subsection (b)(3)''.

(3) Subsection (d) of section 851 is amended by striking ''subsections (b)(4)'' and inserting ''subsections (b)(3)''.

(4) Paragraph (1) of section 851(e) is amended by striking ''subsection (b)(4)'' and inserting ''subsection (b)(3)''.

(5) Paragraph (4) of section 851(e) is amended by striking ''subsections (b)(4)'' and inserting ''subsections (b)(3)''.

(6) Section 851 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(7) Subsection (g) of section 851 (as redesignated by paragraph (6)) is amended by striking paragraph (3).

(8) Section 817(h)(2) is amended—

(A) by striking ''851(b)(4)'' in subparagraph (A) and inserting ''851(b)(3)'', and

(B) by striking ''851(b)(4)(A)(i)'' in subparagraph (B) and inserting ''851(b)(3)(A)(i)''.

(9) Section 1092(f)(2) is amended by striking ''Except for purposes of section 851(b)(3), the'' and inserting ''The''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle F—Taxpayer Protections

SEC. 1081. REASONABLE CAUSE EXCEPTION FOR CERTAIN PENALTIES.

(a) INFORMATION ON DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—Subsection (g) of section 6652 (relating to information required in connection with deductible employee contributions) is amended by adding at the end the following new sentence: ''No penalty shall be imposed under this subsection on any failure which is

shown to be due to reasonable cause and not willful neglect.''.

(b) REPORTS ON STATUS AS QUALIFIED SMALL BUSINESS.—Subsection (k) of section 6652 (relating to failure to make reports required under section 1202) is amended by adding at the end the following new sentence: ''No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.''.

(c) RETURNS OF PERSONAL HOLDING COMPANY TAX BY FOREIGN CORPORATIONS.—Section 6683 (relating to failure of foreign corporation to file return of personal holding company tax) is amended by adding at the end the following new sentence: ''No penalty shall be imposed under this section on any failure which is shown to be due to reasonable cause and not willful neglect.''.

(d) FAILURE TO MAKE REQUIRED PAYMENTS.—Subparagraph (A) of section 7519(f)(4) is amended by adding at the end the following new sentence: ''No penalty shall be imposed under this subparagraph on any failure which is shown to be due to reasonable cause and not willful neglect.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1082. CLARIFICATION OF PERIOD FOR FILING CLAIMS FOR REFUNDS.

(a) IN GENERAL.—Paragraph (3) of section 6512(b) (relating to overpayment determined by Tax Court) is amended by adding at the end the following flush sentence:

''In a case described in subparagraph (B) where the date of the mailing of the notice of deficiency is during the third year after the due date (with extensions) for filing the return of tax and no return was filed before such date, the applicable period under subsections (a) and (b)(2) of section 6511 shall be 3 years.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to claims for credit or refund for taxable years ending after the date of the enactment of this Act.

SEC. 1083. REPEAL OF AUTHORITY TO DISCLOSE WHETHER PROSPECTIVE JUROR HAS BEEN AUDITED.

(a) IN GENERAL.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) is amended by striking ''(h)(6)'' each place it appears and inserting ''(h)(5)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to judicial proceedings commenced after the date of the enactment of this Act.

SEC. 1084. CLARIFICATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Subsection (a) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new sentence: ''For purposes of this chapter, the term 'return' means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1085. PENALTY FOR UNAUTHORIZED INSPECTION OF TAX RETURNS OR TAX RETURN INFORMATION.

(a) IN GENERAL.—Part I of subchapter A of chapter 75 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7213 the following new section:

''SEC. 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.

''(a) PROHIBITIONS.—

''(1) FEDERAL EMPLOYEES AND OTHER PERSONS.—It shall be unlawful for—

''(A) any officer or employee of the United States, or

''(B) any person described in section 6103(n) or an officer or employee of any such person,

willfully to inspect, except as authorized in this title, any return or return information.

''(2) STATE AND OTHER EMPLOYEES.—It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under a provision of section 6103 referred to in section 7213(a)(2).

''(b) PENALTY.—

''(1) IN GENERAL.—Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding $1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

''(2) FEDERAL OFFICERS OR EMPLOYEES.—An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

''(c) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'return', and 'return information' have the respective meanings given such terms by section 6103(b).''.

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 7213(a) is amended by inserting ''(5),'' after ''(m)(2), (4),''.

(2) The table of sections for part I of subchapter A of chapter 75 is amended by inserting after the item relating to section 7213 the following new item:

''Sec. 7213A. Unauthorized inspection of returns or return information.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on and after the date of the enactment of this Act.

SEC. 1086. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OF RETURNS AND RETURN INFORMATION; NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.

(a) CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION.—Subsection (a) of section 7431 is amended—

(1) by striking ''DISCLOSURE'' in the headings for paragraphs (1) and (2) and inserting ''INSPECTION OR DISCLOSURE'', and

(2) by striking ''discloses'' in paragraphs (1) and (2) and inserting ''inspects or discloses''.

(b) NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.—Section 7431 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) NOTIFICATION OF UNLAWFUL INSPECTION AND DISCLOSURE.—If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

''(1) paragraph (1) or (2) of section 7213(a),

''(2) section 7213A(a), or

''(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code,

the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.''.

(c) NO DAMAGES FOR INSPECTION REQUESTED BY TAXPAYER.—Subsection (b) of section 7431 is amended to read as follows:

''(b) EXCEPTIONS.—No liability shall arise under this section with respect to any inspection or disclosure—

''(1) which results from a good faith, but erroneous, interpretation of section 6103, or

''(2) which is requested by the taxpayer.''.

(d) CONFORMING AMENDMENTS.—

(1) Subsections (c)(1)(A), (c)(1)(B)(i), and (d) of section 7431 are each amended by inserting ''inspection or'' before ''disclosure''.

(2) Clause (ii) of section 7431(c)(1)(B) is amended by striking ''willful disclosure or a disclosure'' and inserting ''willful inspection or disclosure or an inspection or disclosure''.

(3) Subsection (f) of section 7431, as redesignated by subsection (b), is amended to read as follows:

''(f) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'inspection', 'return', and 'return information' have the respective meanings given such terms by section 6103(b).''.

(4) The section heading for section 7431 is amended by inserting ''**INSPECTION OR**'' before ''**DISCLOSURE**''.

(5) The table of sections for subchapter B of chapter 76 is amended by inserting ''inspection or'' before ''disclosure'' in the item relating to section 7431.

(6) Paragraph (2) of section 7431(g), as redesignated by subsection (b), is amended by striking ''any use'' and inserting ''any inspection or use''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act.

TITLE XI—SIMPLIFICATION PROVISIONS RELATING TO ESTATE AND GIFT TAXES

SEC. 1101. GIFTS TO CHARITIES EXEMPT FROM GIFT TAX FILING REQUIREMENTS.

(a) IN GENERAL.—Section 6019 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) a transfer with respect to which a deduction is allowed under section 2522, except that this paragraph shall apply with respect to a transfer of property (other than a transfer described in section 2522(d)) only if the entire value of such property is allowed as a deduction under section 2522,''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to gifts made after the date of the enactment of this Act.

SEC. 1102. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.

(a) AMENDMENT TO SECTION 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:

''(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.''.

(b) AMENDMENT TO SECTION 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:

''(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

SEC. 1103. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) GENERAL RULE.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 1104. TREATMENT FOR ESTATE TAX PURPOSES OF SHORT-TERM OBLIGATIONS HELD BY NONRESIDENT ALIENS.

(a) IN GENERAL.—Subsection (b) of section 2105 is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by inserting after paragraph (3) the following new paragraph:

''(4) obligations which would be original issue discount obligations as defined in section 871(g)(1) but for subparagraph (B)(i) thereof, if any interest thereon (were such interest received by the decedent at the time of his death) would not be effectively connected with the conduct of a trade or business within the United States.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1105. DISTRIBUTIONS DURING FIRST 65 DAYS OF TAXABLE YEAR OF ESTATE.

(a) IN GENERAL.—Subsection (b) of section 663 (relating to distributions in first 65 days of taxable year) is amended by inserting ''an estate or'' before ''a trust'' each place it appears.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 663(b) is amended by striking ''the fiduciary of such trust'' and inserting ''the executor of such estate or the fiduciary of such trust (as the case may be)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1106. SEPARATE SHARE RULES AVAILABLE TO ESTATES.

(a) IN GENERAL.—Subsection (c) of section 663 (relating to separate shares treated as separate trusts) is amended—

(1) by inserting before the last sentence the following new sentence: ''Rules similar to the rules of the preceding provisions of this subsection shall apply to treat substantially separate and independent shares of different beneficiaries in an estate having more than 1 beneficiary as separate estates.'', and

(2) by inserting ''or estates'' after ''trusts'' in the last sentence.

(b) CONFORMING AMENDMENT.—The subsection heading of section 663(c) is amended by inserting ''ESTATES OR'' before ''TRUSTS''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1107. EXECUTOR OF ESTATE AND BENEFICIARIES TREATED AS RELATED PERSONS FOR DISALLOWANCE OF LOSSES, ETC.

(a) DISALLOWANCE OF LOSSES.—Subsection (b) of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by striking ''or'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ''; or'', and by adding at the end the following new paragraph:

''(13) Except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate.''.

(b) ORDINARY INCOME FROM GAIN FROM SALE OF DEPRECIABLE PROPERTY.—Subsection (b) of section 1239 is amended by striking the period at the end of paragraph (2) and inserting '', and'' and by adding at the end the following new paragraph:

''(3) except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1108. TREATMENT OF FUNERAL TRUSTS.

(a) IN GENERAL.—Subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new section:

''SEC. 684. TREATMENT OF FUNERAL TRUSTS.

''(a) IN GENERAL.—In the case of a qualified funeral trust—

''(1) subparts B, C, D, and E shall not apply, and

''(2) no deduction shall be allowed by section 642(b).

''(b) QUALIFIED FUNERAL TRUST.—For purposes of this subsection, the term 'qualified funeral trust' means any trust (other than a foreign trust) if—

''(1) the trust arises as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property necessary to provide such services,

''(2) the sole purpose of the trust is to hold, invest, and reinvest funds in the trust and to use such funds solely to make payments for such services or property for the benefit of the beneficiaries of the trust,

''(3) the only beneficiaries of such trust are individuals who have entered into contracts described in paragraph (1) to have such services or property provided at their death,

''(4) the only contributions to the trust are contributions by or for the benefit of such beneficiaries,

''(5) the trustee elects the application of this subsection, and

''(6) the trust would (but for the election described in paragraph (5)) be treated as owned by the beneficiaries under subpart E.

''(c) DOLLAR LIMITATION ON CONTRIBUTIONS.—

''(1) IN GENERAL.—The term 'qualified funeral trust' shall not include any trust which accepts aggregate contributions by or for the benefit of an individual in excess of $7,000.

''(2) RELATED TRUSTS.—For purposes of paragraph (1), all trusts having trustees which are related persons shall be treated as 1 trust. For purposes of the preceding sentence, persons are related if—

''(A) the relationship between such persons is described in section 267 or 707(b),

''(B) such persons are treated as a single employer under subsection (a) or (b) of section 52, or

''(C) the Secretary determines that treating such persons as related is necessary to prevent avoidance of the purposes of this section.

''(3) INFLATION ADJUSTMENT.—In the case of any contract referred to in subsection (b)(1) which is entered into during any calendar year after 1998, the dollar amount referred to paragraph (1) 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 such calendar year, by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any dollar amount after being increased under the preceding sentence is not a multiple of $100, such dollar amount shall be rounded to the nearest multiple of $100.

''(d) APPLICATION OF RATE SCHEDULE.—Section 1(e) shall be applied to each qualified funeral trust by treating each beneficiary's interest in each such trust as a separate trust.

''(e) TREATMENT OF AMOUNTS REFUNDED TO BENEFICIARY ON CANCELLATION.—No gain or loss shall be recognized to a beneficiary described in subsection (b)(3) of any qualified funeral trust by reason of any payment from such trust to such beneficiary by reason of cancellation of a contract referred to in subsection (b)(1). If any payment referred to in the preceding sentence consists of property other than money, the basis of such property in the hands of such beneficiary shall be the same as the trust's basis in such property immediately before the payment.

''(f) SIMPLIFIED REPORTING.—The Secretary may prescribe rules for simplified reporting of all trusts having a single trustee.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new item:

''Sec. 684. Treatment of funeral trusts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1109. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) GENERAL RULE.—Section 2035 is amended to read as follows:

''SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

''(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

''(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

''(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death, the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

''(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

''(c) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.—

''(1) IN GENERAL.—For purposes of—

''(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

''(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

''(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

''(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

''(3) MARITAL AND SMALL TRANSFERS.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(2)) to file any gift tax return for such year with respect to transfers to such donee.

''(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

''(e) TREATMENT OF CERTAIN TRANSFERS FROM REVOCABLE TRUSTS.—For purposes of this section and section 2038, any transfer from any portion of a trust during any period that such portion was treated under section 676 as owned by the decedent by reason of a power in the grantor (determined without regard to section 672(e)) shall be treated as a transfer made directly by the decedent.''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11

is amended by striking ''gifts'' in the item relating to section 2035 and inserting ''certain gifts''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 1110. CLARIFICATION OF TREATMENT OF SURVIVOR ANNUITIES UNDER QUALIFIED TERMINABLE INTEREST RULES.

(a) IN GENERAL.—Subparagraph (C) of section 2056(b)(7) is amended by inserting ''(or, in the case of an interest in an annuity arising under the community property laws of a State, included in the gross estate of the decedent under section 2033)'' after ''section 2039''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1111. TREATMENT UNDER QUALIFIED DOMESTIC TRUST RULES OF FORMS OF OWNERSHIP WHICH ARE NOT TRUSTS.

(a) IN GENERAL.—Subsection (c) of section 2056A (defining qualified domestic trust) is amended by adding at the end the following new paragraph:

''(3) TRUST.—To the extent provided in regulations prescribed by the Secretary, the term 'trust' includes other arrangements which have substantially the same effect as a trust.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 1112. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

''(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

''(A) the notice of election, as filed, does not contain all required information, or

''(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 1113. AUTHORITY TO WAIVE REQUIREMENT OF UNITED STATES TRUSTEE FOR QUALIFIED DOMESTIC TRUSTS.

(a) IN GENERAL.—Subparagraph (A) of section 2056A(a)(1) is amended by inserting ''except as provided in regulations prescribed by the Secretary,'' before ''requires''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

TITLE XII—SIMPLIFICATION PROVISIONS RELATING TO EXCISE TAXES, TAX-EXEMPT BONDS, AND OTHER MATTERS

Subtitle A—Excise Tax Simplification

PART I—EXCISE TAXES ON HEAVY TRUCKS AND LUXURY CARS

SEC. 1201. INCREASE IN DE MINIMIS LIMIT FOR AFTER-MARKET ALTERATIONS FOR HEAVY TRUCKS AND LUXURY CARS.

(a) IN GENERAL.—Sections 4003(a)(3)(C) and 4051(b)(2)(B) (relating to exceptions) are each amended by striking ''$200'' and inserting ''$1,000''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to installations on vehicles sold after the date of the enactment of this Act.

PART II—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

SEC. 1211. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Section 5008(c)(1) (relating to distilled spirits returned to bonded premises) is amended by striking ''withdrawn from bonded premises on payment or determination of tax'' and inserting ''on which tax has been determined or paid''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1212. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—Section 5175(c) (relating to cancellation of credit of export bonds) is amended by striking ''on the submission of'' and all that follows and inserting ''if there is such proof of exportation as the Secretary may by regulations require.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1213. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Section 5207(c) (relating to preservation and inspection) is amended by striking ''shall be kept on the premises where the operations covered by the record are carried on and''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1214. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Section 5222(b)(2) (relating to receipt) is amended to read as follows:

''(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or''.

(b) CLARIFICATION OF AUTHORITY TO PERMIT REMOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS DISTILLING MATERIAL.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

''(f) REMOVAL FOR USE AS DISTILLING MATERIAL.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material.''.

(c) CLARIFICATION OF REFUND AND CREDIT OF TAX.—Section 5056 (relating to refund and credit of tax, or relief from liability) is amended—

(1) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) BEER RECEIVED AT A DISTILLED SPIRITS PLANT.—Any tax paid by any brewer on beer produced in the United States may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.'', and

(2) by striking ''or rendering unmerchantable'' in subsection (d) (as so redesignated) and inserting ''rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1215. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

(a) IN GENERAL.—Section 5115 (relating to sign required on premises) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 5681(a) is amended by striking '', and every wholesale dealer in liquors,'' and by striking ''section 5115(a) or''.

(2) Section 5681(c) is amended—

(A) by striking ''or wholesale liquor establishment, on which no sign required by section 5115(a) or'' and inserting ''on which no sign required by'', and

(B) by striking ''or wholesale liquor establishment, or who'' and inserting ''or who''.

(3) The table of sections for subpart D of part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1216. REFUND OF TAX TO WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) IN GENERAL.—Section 5044(a) (relating to refund of tax on unmerchantable wine) is amended by striking ''as unmerchantable''.

(b) CONFORMING AMENDMENTS.—

(1) Section 5361 is amended by striking ''unmerchantable''.

(2) The section heading for section 5044 is amended by striking ''unmerchantable''.

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking ''unmerchantable''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1217. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

(a) IN GENERAL.—Section 5384(b)(2)(D) (relating to ameliorated fruit and berry wines) is amended by striking ''loganberries, currants, or gooseberries,'' and inserting ''any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1218. DOMESTICALLY PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

(a) IN GENERAL.—Section 5053 (relating to exemptions), as amended by section 1414(b), is amended by inserting after subsection (f) the following new subsection:

''(g) REMOVALS FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—

''(1) IN GENERAL.—Subject to such regulations as the Secretary may prescribe—

''(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

''(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

''(2) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) shall apply for purposes of this subsection.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1219. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) IN GENERAL.—Section 5053 (relating to exemptions), as amended by section 1418(a), is amended by inserting after subsection (g) the following new subsection:

''(h) REMOVALS FOR DESTRUCTION.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1220. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking ''found to have been paid'' and all that follows and inserting ''paid on such beer if there is such proof of exportation as the Secretary may by regulations require.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1221. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter G of chapter 51 is amended by adding at the end the following new section:

''SEC. 5418. BEER IMPORTED IN BULK.

''Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax.''.

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end the following new item:

''Sec. 5418. Beer imported in bulk.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 1222. TRANSFER TO BONDED WINE CELLARS OF WINE IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter F of chapter 51 is amended by inserting after section 5363 the following new section:

''SEC. 5364. WINE IMPORTED IN BULK.

''Wine imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a bonded wine cellar without payment of the internal revenue tax imposed on such wine. The proprietor of a bonded wine cellar to which such wine is transferred shall become liable for the tax on the wine withdrawn from customs custody under this section upon release of the wine from customs custody, and the importer, or the person bringing such wine into the United States, shall thereupon be relieved of the liability for such tax.''.

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by inserting after the item relating to section 5363 the following new item:

''Sec. 5364. Wine imported in bulk.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 1st calendar quarter that begins at least 90 days after the date of the enactment of this Act.

PART III—OTHER EXCISE TAX PROVISIONS

SEC. 1231. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—Section 4222(b)(2) (relating to export) is amended—

(1) by striking ''in the case of any sale or resale for export,'', and

(2) by striking ''EXPORT'' and inserting ''UNDER REGULATIONS''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1232. REPEAL OF EXPIRED PROVISIONS.

(a) PIGGY-BACK TRAILERS.—Section 4051 (relating to imposition of tax on heavy trucks and trailers sold at retail) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) DEEP SEABED MINING.—

(1) IN GENERAL.—Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

(c) OZONE-DEPLETING CHEMICALS.—

(1) Paragraph (1) of section 4681(b) is amended by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

''(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during any calendar year after 1995 shall be $5.35 increased by 45 cents for each year after 1995.''.

(2) Subsection (g) of section 4682 is amended to read as follows:

''(g) CHEMICALS USED AS PROPELLANTS IN METERED-DOSE INHALERS.—

''(1) EXEMPTION FROM TAX.—

''(A) IN GENERAL.—No tax shall be imposed by section 4681 on—

''(i) any use of any substance as a propellant in metered-dose inhalers, or

''(ii) any qualified sale by the manufacturer, producer, or importer of any substance.

''(B) QUALIFIED SALE.—For purposes of subparagraph (A), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

''(i) for use by the purchaser as a propellant in metered dose inhalers, or

''(ii) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

''(2) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used by any person as a propellant in metered-dose inhalers, credit or refund without interest shall be allowed to such person in an amount equal to the tax so paid. Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this paragraph.''.

SEC. 1233. SIMPLIFICATION OF IMPOSITION OF EXCISE TAX ON ARROWS.

(a) IN GENERAL.—Subsection (b) of section 4161 (relating to imposition of tax) is amended to read as follows:

''(b) BOWS AND ARROWS, ETC.—

''(1) BOWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a draw weight of 10 pounds or more, a tax equal to 11 percent of the price for which so sold.

''(B) PARTS AND ACCESSORIES.—There is hereby imposed upon the sale by the manufacturer, producer, or importer—

''(i) of any part of accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

''(ii) of any quiver suitable for use with arrows described in paragraph (2),

a tax equivalent to 11 percent of the price for which so sold.

''(2) ARROWS.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any shaft, point, nock, or vane of a type used in the manufacture of any arrow which after its assembly—

''(A) measures 18 inches overall or more in length, or

''(B) measures less than 18 inches overall in length but is suitable for use with a bow described in paragraph (1)(A),

a tax equal to 12.4 percent of the price for which so sold.

''(3) COORDINATION WITH SUBSECTION (a).—No tax shall be imposed under this subsection with respect to any article taxable under subsection (a).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles sold by the manufacturer, producer, or importer after September 30 1997.

SEC. 1234. MODIFICATIONS TO RETAIL TAX ON HEAVY TRUCKS.

(a) CERTAIN REPAIRS AND MODIFICATIONS NOT TREATED AS MANUFACTURE.—Section 4052 is amended by redesignating the subsection defining a long-term lease as subsection (e) and by adding at the end the following new subsection:

''(f) CERTAIN REPAIRS AND MODIFICATIONS NOT TREATED AS MANUFACTURE.—

''(1) IN GENERAL.—An article described in section 4051(a)(1) shall not be treated as manufactured or produced solely by reason of repairs or modifications to the article (including any modification which changes the transportation function of the article or restores a wrecked article to a functional condition) if the cost of such repairs and modifications does not exceed 75 percent of the retail price of a comparable new article.

''(2) EXCEPTION.—Paragraph (1) shall not apply if the article (as repaired or modified) would, if new, be taxable under section 4051 and the article when new was not taxable under this section or the corresponding provision of prior law.''.

(b) SIMPLIFICATION OF CERTIFICATION PROCEDURES WITH RESPECT TO SALES OF TAXABLE ARTICLES.—

(1) REPEAL OF REGISTRATION REQUIREMENT.—Subsection (d) of section 4052 is amended by striking ''rules of—'' and all that follows through ''shall apply'' and inserting ''rules of subsections (c) and (d) of section 4216 (relating to partial payments) shall apply''.

(2) REQUIREMENT TO MODIFY REGULATIONS.—Section 4052 is amended by adding at the end the following new subsection:

''(g) REGULATIONS.—The Secretary shall prescribe regulations which permit, in lieu of any

other certification, persons who are purchasing articles taxable under this subchapter for resale or leasing in a long-term lease to execute a statement (made under penalties of perjury) on the sale invoice that such sale is for resale. The Secretary shall not impose any registration requirement as a condition of using such procedure.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1998.

SEC. 1235. SKYDIVING FLIGHTS EXEMPT FROM TAX ON TRANSPORTATION OF PERSONS BY AIR.

(a) IN GENERAL.—Section 4261 (relating to imposition of tax on transportation of persons by air) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) EXEMPTION FOR SKYDIVING USES.—No tax shall be imposed by this section or section 4271 on any air transportation exclusively for the purpose of skydiving.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transportation beginning after September 30, 1997.

SEC. 1236. ALLOWANCE OR CREDIT OF REFUND FOR TAX-PAID AVIATION FUEL PURCHASED BY REGISTERED PRODUCER OF AVIATION FUEL.

(a) IN GENERAL.—Subsection (l) of section 6467 (relating to nontaxable uses of diesel fuel and aviation fuel) is amended by adding at the end the following new paragraph:

''(6) REFUND OF TAX-PAID AVIATION FUEL TO REGISTERED PRODUCER OF FUEL.—For purposes of this subsection, the term 'nontaxable use' includes the taxable sale of aviation fuel by a producer of such fuel who is registered under section 4101 if a prior tax imposed by section 4091 was paid (and not credited or refunded) on such fuel.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales by the producer after September 30, 1997.

Subtitle B—Tax-Exempt Bond Provisions

SEC. 1241. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking ''the lesser of 5 percent of the proceeds of the issue or $100,000'' and inserting ''5 percent of the proceeds of the issue''.

SEC. 1242. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

Subparagraph (C) of section 148(f)(4) is amended by adding at the end the following new clause:

''(xvii) TREATMENT OF BONA FIDE DEBT SERVICE FUNDS.—If the spending requirements of clause (ii) are met with respect to the available construction proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue.''.

SEC. 1243. REPEAL OF DEBT SERVICE-BASED LIMITATION ON INVESTMENT IN CERTAIN NONPURPOSE INVESTMENTS.

Subsection (d) of section 148 (relating to special rules for reasonably required reserve or replacement fund) is amended by striking paragraph (3).

SEC. 1244. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

SEC. 1245. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to bonds issued after the date of the enactment of this Act.

Subtitle C—Tax Court Procedures

SEC. 1251. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) APPEAL OF ORDER.—Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: ''An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.''.

(b) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

''(4) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1252. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) IN GENERAL.—Subsection (c) of section 7481 (relating to jurisdiction over interest determinations) is amended to read as follows:

''(c) JURISDICTION OVER INTEREST DETERMINATIONS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), if, within 1 year after the date the decision of the Tax Court becomes final under subsection (a) in a case to which this subsection applies, the taxpayer files a motion in the Tax Court for a redetermination of the amount of interest involved, then the Tax Court may reopen the case solely to determine whether the taxpayer has made an overpayment of such interest or the Secretary has made an underpayment of such interest and the amount thereof.

''(2) CASES TO WHICH THIS SUBSECTION APPLIES.—This subsection shall apply where—

''(A)(i) an assessment has been made by the Secretary under section 6215 which includes interest as imposed by this title, and

''(ii) the taxpayer has paid the entire amount of the deficiency plus interest claimed by the Secretary, and

''(B) the Tax Court finds under section 6512(b) that the taxpayer has made an overpayment.

''(3) SPECIAL RULES.—If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest or that the Secretary has made an underpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining interest, when entered upon the records of the court, shall be reviewable in the same manner as a decision of the Tax Court.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 1253. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) IN GENERAL.—Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

''(D) SPECIAL RULES FOR APPLYING NET WORTH REQUIREMENT.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph—

''(i) the net worth limitation in clause (i) of such section shall apply to—

''(I) an estate but shall be determined as of the date of the decedent's death, and

''(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

''(ii) individuals filing a joint return shall be treated as separate individuals for purposes of clause (i) of such section.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

SEC. 1254. PROCEEDINGS FOR DETERMINATION OF EMPLOYMENT STATUS.

(a) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7435 as section 7436 and by inserting after section 7434 the following new section:

''SEC. 7435. PROCEEDINGS FOR DETERMINATION OF EMPLOYMENT STATUS.

''(a) CREATION OF REMEDY.—If, in connection with an audit of any person, there is an actual controversy involving a determination by the Secretary as part of an examination that—

''(1) one or more individuals performing services for such person are employees of such person for purposes of subtitle C, or

''(2) such person is not entitled to the treatment under subsection (a) of section 530 of the Revenue Act of 1978 with respect to such an individual,

upon the filing of an appropriate pleading, the Tax Court may determine whether such a determination by the Secretary is correct. Any such determination by the Tax Court shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

''(b) LIMITATIONS.—

''(1) PETITIONER.—A pleading may be filed under this section only by the person for whom the services are performed.

''(2) TIME FOR FILING ACTION.—If the Secretary sends by certified or registered mail notice to the petitioner of a determination by the Secretary described in subsection (a), no proceeding may be initiated under this section with respect to such determination unless the pleading is filed before the 91st day after the date of such mailing.

''(3) NO ADVERSE INFERENCE FROM TREATMENT WHILE ACTION IS PENDING.—If, during the pendency of any proceeding brought under this section, the petitioner changes his treatment for employment tax purposes of any individual whose employment status as an employee is involved in such proceeding (or of any individual holding a substantially similar position) to treatment as an employee, such change shall not be taken into account in the Tax Court's determination under this section.

''(c) SMALL CASE PROCEDURES.—

''(1) IN GENERAL.—At the option of the petitioner, concurred in by the Tax Court or a division thereof before the hearing of the case, proceedings under this section may (notwithstanding the provisions of section 7453) be conducted subject to the rules of evidence, practice, and procedure applicable under section 7463 if the amount of employment taxes placed in dispute is $10,000 or less for each calendar quarter involved.

''(2) FINALITY OF DECISIONS.—A decision entered in any proceeding conducted under this subsection shall not be reviewed in any other court and shall not be treated as a precedent for any other case not involving the same petitioner and the same determinations.

''(3) CERTAIN RULES TO APPLY.—Rules similar to the rules of the last sentence of subsection (a), and subsections (c), (d), and (e), of section 7463 shall apply to proceedings conducted under this subsection.

''(d) SPECIAL RULES.—

''(1) RESTRICTIONS ON ASSESSMENT AND COLLECTION PENDING ACTION, ETC.—The principles of subsections (a), (b), and (d) of section 6213, section 6214(a), section 6215, section 6503(a), and section 6512 shall apply to proceedings brought under this section in the same manner as if the Secretary's determination described in subsection (a) were a notice of deficiency.

''(2) AWARDING OF COSTS AND CERTAIN FEES.—Section 7430 shall apply to proceedings brought under this section.

''(e) EMPLOYMENT TAX.—The term 'employment tax' means any tax imposed by subtitle C.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 6511 is amended by adding at the end the following new paragraph:

''(7) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO SELF-EMPLOYMENT TAX IN CERTAIN CASES.—If—

''(A) the claim for credit or refund relates to an overpayment of the tax imposed by chapter 2 (relating to the tax on self-employment income) attributable to Tax Court determination in a proceeding under section 7435, and

''(B) the allowance of a credit or refund of such overpayment is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises),

such credit or refund may be allowed or made if claim therefor is filed on or before the last day of the second year after the calendar year in which such determination becomes final.''.

(2) Sections 7453 and 7481(b) are each amended by striking ''section 7463'' and inserting ''section 7435(c) or 7463''.

(3) The table of sections for subchapter B of chapter 76 is amended by striking the last item and inserting the following:

''Sec. 7435. Proceedings for determination of employment status.

''Sec. 7436. Cross references.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle D—Other Provisions

SEC. 1261. EXTENSION OF DUE DATE OF FIRST QUARTER ESTIMATED TAX PAYMENT BY PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Paragraph (3) of section 6655(g) is amended by adding at the end the following new sentence: ''In the case of a private foundation, subsection (c)(2) shall be applied by substituting 'May 15' for 'April 15'.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining underpayments of estimated tax for taxable years beginning after the date of the enactment of this Act.

SEC. 1262. CLARIFICATION OF AUTHORITY TO WITHHOLD PUERTO RICO INCOME TAXES FROM SALARIES OF FEDERAL EMPLOYEES.

(a) IN GENERAL.—Subsection (c) of section 5517 of title 5, United States Code, is amended by striking ''or territory or possession'' and inserting '', territory, possession, or commonwealth''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1998.

SEC. 1263. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS.

(a) GENERAL RULE.—Subparagraph (B) of section 6621(c)(2) (defining applicable date) is amended by adding at the end the following new clause:

''(iii) EXCEPTION FOR LETTERS OR NOTICES INVOLVING SMALL AMOUNTS.—For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1997.

TITLE XIII—PENSION SIMPLIFICATION

SEC. 1301. MATCHING CONTRIBUTIONS OF SELF-EMPLOYED INDIVIDUALS NOT TREATED AS ELECTIVE EMPLOYER CONTRIBUTIONS.

(a) IN GENERAL.—Section 402(g) (relating to limitation on exclusion for elective deferrals) is amended by adding at the end the following:

''(9) MATCHING CONTRIBUTIONS ON BEHALF OF SELF-EMPLOYED INDIVIDUALS NOT TREATED AS ELECTIVE EMPLOYER CONTRIBUTIONS.—Any matching contribution described in section 401(m)(4)(A)) which is made on behalf of a self-employed individual (as defined in section 401(c)) shall not be treated as an elective employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k)) for purposes of this title.''.

(b) CONFORMING AMENDMENT FOR SIMPLE RETIREMENT ACCOUNTS.—Section 408(p) (relating to simple retirement accounts) is amended by adding at the end the following:

''(8) MATCHING CONTRIBUTIONS ON BEHALF OF SELF-EMPLOYED INDIVIDUALS NOT TREATED AS ELECTIVE EMPLOYER CONTRIBUTIONS.—Any matching contribution described in paragraph (2)(A)(iii) which is made on behalf of a self-employed individual (as defined in section 401(c)) shall not be treated as an elective employer contribution to a simple retirement account for purposes of this title.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997.

SEC. 1302. CONTRIBUTIONS TO IRAS THROUGH PAYROLL DEDUCTIONS.

(a) DEFINITIONS.—For purposes of this section:

(1) CONTRIBUTION CERTIFICATE.—The term ''contribution certificate'' means a certificate submitted by an eligible employee to the employee's employer which—

(A) identifies the employee by name, address, and social security number,

(B) includes a certification by the employee that the employee is an eligible employee,

(C) identifies the individual retirement plan to which the employee wishes to make contributions through payroll deductions,

(D) identifies the amount of such contributions, not to exceed the amount allowed under section 408 of the Internal Revenue Code of 1986 to an individual retirement plan for such year.

(2) ELIGIBLE EMPLOYEE.—

(A) IN GENERAL.—The term ''eligible employee'' means, with respect to any taxable year, an employee whose employer does not sponsor a plan, contract, pension, account, or trust described in section 219(g)(5) (A) or (B) of the Internal Revenue Code of 1986.

(B) EMPLOYEE.—The term ''employee'' does not include an employee as defined in section 401(c)(1) of such Code.

(3) INDIVIDUAL RETIREMENT PLANS.—The term ''individual retirement plan'' has the meaning given the term by section 7701(a)(37) of the Internal Revenue Code of 1986.

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

(b) ESTABLISHMENT OF PAYROLL DEDUCTION SYSTEM.—An employer may establish a system under which eligible employees, through employer payroll deductions, may make contributions to individual retirement plans. An employer shall not incur any liability under title I of the Employee Retirement Income Security Act of 1974 in providing for such a system.

(c) CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.—

(1) IN GENERAL.—The system established under subsection (b) shall provide that contributions made to an individual retirement plan for any taxable year are—

(A) contributions through employer payroll deductions, and

(B) if the employer so elects, additional contributions by the employee which, when added to contributions under subparagraph (A), do not exceed the amount allowed under section 408 of the Internal Revenue Code of 1986 for the taxable year.

(2) EMPLOYER PAYROLL DEDUCTIONS.—

(A) IN GENERAL.—The system established under subsection (b) shall provide that an eligible employee may establish and maintain an individual retirement plan simply by—

(i) completing a contribution certificate, and

(ii) submitting such certificate to the eligible employee's employer in the manner provided under subparagraph (D).

(B) EASE OF ADMINISTRATION.—An eligible employee establishing and maintaining an individual retirement plan under subparagraph (A) may change the amount of an employer payroll deduction in the same manner as under subparagraph (A).

(C) SIMPLIFIED CONTRIBUTION CERTIFICATE.—The Secretary shall develop a model contribution certificate for purposes of this paragraph which is written in a clear and easily understandable manner.

(D) USE OF CERTIFICATE.—Each employer electing to adopt a system under subsection (b) shall, upon receipt of a contribution certificate from an eligible employee, deduct the appropriate contribution as determined by such certificate from the employee's wages in equal amounts during the remaining payroll periods for the taxable year and shall remit such amounts for investment in the employee's individual retirement plan not later than the close of the 30-day period following the last day of the month in which such payroll period occurs.

(E) FAILURE TO REMIT PAYROLL DEDUCTIONS.—For purposes of the Internal Revenue Code of 1986, any amount which an employer fails to remit on behalf of an eligible employee pursuant to a contribution certificate of such employee shall not be allowed as a deduction to the employer under such Code.

SEC. 1303. PLANS NOT DISQUALIFIED MERELY BY ACCEPTING ROLLOVER CONTRIBUTIONS.

(a) IN GENERAL.—Section 401(a) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by inserting after paragraph (34) the following:

''(35) PLANS NOT DISQUALIFIED MERELY BY ACCEPTING ROLLOVER CONTRIBUTIONS.—A trust which is part of a plan shall not fail to be a qualified trust under this section solely because the plan accepts a contribution of an eligible rollover distribution as described in section 402(c)(4) from another plan without such a qualified trust if, at the time of the transfer, the trustee of the other plan provided notice of the other plan's intention to have such a qualified trust.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to rollover contributions made after December 31, 1997.

SEC. 1304. MODIFICATION OF PROHIBITION OF ASSIGNMENT OR ALIENATION.

(a) AMENDMENT TO ERISA.—Section 206(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(d)) is amended by adding at the end the following:

''(4) Paragraph (1) shall not apply to any offset of a participant's accrued benefit in an employee pension benefit plan against an amount that the participant is ordered or required to pay to the plan if—

''(A) the order or requirement to pay arises—

''(i) under a judgment of conviction for a crime involving such plan,

''(ii) under a civil judgment (including a consent order or decree) entered by a court in an action brought in connection with a violation (or alleged violation) of part 4 of this subtitle, or

''(iii) pursuant to a settlement agreement between the Secretary and the participant, or a settlement agreement between the Pension Benefit Guaranty Corporation and the participant, in connection with a violation (or alleged violation) of part 4 of this subtitle by a fiduciary or any other person,

''(B) the judgment, order, decree, or settlement agreement expressly provides for the offset of all or part of the amount ordered or required to be paid to the plan against the participant's accrued benefit in the plan, and

''(C) if the participant has a spouse at the time at which the offset is to be made—

''(i) such spouse has consented in writing to such offset and such consent is witnessed by a notary public or representative of the plan,

''(ii) such spouse is ordered or required in such judgment, order, decree, or settlement to pay an amount to the plan in connection with a violation of part 4 of this subtitle, or

''(iii) in such judgment, order, decree, or settlement, such spouse retains the right to receive the value of the survivor annuity under a qualified joint and survivor annuity provided pursuant to section 205(a)(1) and under a qualified preretirement survivor annuity provided pursuant to section 205(a)(2), determined in accordance with paragraph (5).

A plan shall not be treated as failing to meet the requirements of section 205 solely by reason of an offset under this paragraph.

''(5)(A) The value of the survivor annuity described in paragraph (4)(C)(iii) shall be determined as if—

''(i) the participant terminated employment on the date of the offset,

''(ii) there was no offset,

''(iii) the plan permitted retirement only on or after normal retirement age,

''(iv) the plan provided only the minimum-required qualified joint and survivor annuity, and

''(v) the amount of the qualified preretirement survivor annuity under the plan is equal to the amount of the survivor annuity payable under the minimum-required qualified joint and survivor annuity.

''(B) For purposes of this paragraph, the term 'minimum-required qualified joint and survivor annuity' means the qualified joint and survivor annuity which is the actuarial equivalent of a single annuity for the life of the participant and under which the survivor annuity is 50 percent of the amount of the annuity which is payable during the joint lives of the participant and the spouse.''.

(b) AMENDMENT TO 1986 CODE.—Section 401(a)(13) (relating to assignment and alienation) is made by adding at the end the following:

''(C) SPECIAL RULE FOR CERTAIN JUDGMENTS AND SETTLEMENTS.—Subparagraph (A) shall not apply to any offset of a participant's accrued benefit in an employee pension benefit plan against an amount that the participant is ordered or required to pay to the plan if—

''(i) the order or requirement to pay arises—

''(I) under a judgment of conviction for a crime involving such plan,

''(II) under a civil judgment (including a consent order or decree) entered by a court in an action brought in connection with a violation (or alleged violation) of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or

''(III) pursuant to a settlement agreement between the Secretary and the participant, or a settlement agreement between the Pension Benefit Guaranty Corporation and the participant, in connection with a violation (or alleged violation) of part 4 of such subtitle by a fiduciary or any other person,

''(ii) the judgment, order, decree, or settlement agreement expressly provides for the offset of all or part of the amount ordered or required to be paid to the plan against the participant's accrued benefit in the plan, and

''(iii) if the participant has a spouse at the time at which the offset is to be made—

''(I) such spouse has consented in writing to such offset and such consent is witnessed by a notary public or representative of the plan,

''(II) such spouse is ordered or required in such judgment, order, decree, or settlement to pay an amount to the plan in connection with a violation of part 4 of such subtitle, or

''(III) in such judgment, order, decree, or settlement, such spouse retains the right to receive the value of the survivor annuity under a qualified joint and survivor annuity provided pursuant to section 401(a)(11)(A)(i) and under a qualified preretirement survivor annuity provided pursuant to section 401(a)(11)(A)(ii), determined in accordance with subparagraph (D).

A plan shall not be treated as failing to meet the requirements of this subsection, subsection (k), section 403(b), or section 409(d) solely by reason of an offset described in this subparagraph.

''(D) VALUATION OF SURVIVOR ANNUITY.—

''(i) IN GENERAL.—The value of the survivor annuity described in subparagraph (C)(iii)(III) shall be determined as if—

''(I) the participant terminated employment on the date of the offset,

''(II) there was no offset,

''(III) the plan permitted retirement only on or after normal retirement age,

''(IV) the plan provided only the minimum-required qualified joint and survivor annuity, and

''(V) the amount of the qualified preretirement survivor annuity under the plan is equal to the amount of the survivor annuity payable under the minimum-required qualified joint and survivor annuity.

''(ii) DEFINITION.—For purposes of this subparagraph, the term 'minimum-required qualified joint and survivor annuity' means the qualified joint and survivor annuity which is the actuarial equivalent of a single annuity for the life of the participant and under which the survivor annuity is 50 percent of the amount of the annuity which is payable during the joint lives of the participant and the spouse.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to judgments, orders, and decrees issued, and settlement agreements entered into, on or after the date of the enactment of this Act.

SEC. 1305. ELIMINATION OF PAPERWORK BURDENS ON PLANS.

(a) ELIMINATION OF UNNECESSARY FILING REQUIREMENTS.—Section 101(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(b)) is amended by striking paragraphs (1), (2), and (3) and by redesignating paragraphs (4) and (5) as paragraphs (1) and (2), respectively.

(b) ELIMINATION OF PLAN DESCRIPTION.—

(1) IN GENERAL.—Section 102(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(a)) is amended—

(A) by striking paragraph (2), and

(B) by striking ''(a)(1)'' and inserting ''(a)''.

(2) CONFORMING AMENDMENTS.—

(A) Section 102(b) of such Act (29 U.S.C. 1022(b)) is amended by striking ''The plan description and summary plan description shall contain'' and inserting ''The summary plan description shall contain''.

(B) The heading for section 102 of such Act is amended by striking ''PLAN DESCRIPTION AND''.

(c) FURNISHING OF REPORTS.—

(1) IN GENERAL.—Section 104(a)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(a)(1)) is amended to read as follows:

''SEC. 104. (a)(1) The administrator of any employee benefit plan subject to this part shall file with the Secretary the annual report for a plan year within 210 days after the close of such year (or within such time as may be required by regulations promulgated by the Secretary in order to reduce duplicative filing). The Secretary shall make copies of such annual reports available for inspection in the public document room of the Department of Labor.''.

(2) SECRETARY MAY REQUEST DOCUMENTS.—

(A) IN GENERAL.—Section 104(a) of such Act (29 U.S.C. 1024(a)) is amended by adding at the end the following:

''(6) The administrator of any employee benefit plan subject to this part shall furnish to the Secretary, upon request, any documents relating to the employee benefit plan, including but not limited to, the latest summary plan description (including any summaries of plan changes not contained in the summary plan description), and the bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or operated.''.

(B) PENALTY.—Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following:

''(6) If, within 30 days of a request by the Secretary to a plan administrator for documents under section 104(a)(6), the plan administrator fails to furnish the material requested to the Secretary, the Secretary may assess a civil penalty against the plan administrator of up to $100 a day from the date of such failure (but in no event in excess of $1,000 per request). No penalty shall be imposed under this paragraph for any failure resulting from matters reasonably beyond the control of the plan administrator.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended by striking ''section 102(a)(1)'' each place it appears and inserting ''section 102(a)''.

(2) Section 104(b)(2) of such Act (29 U.S.C. 1024(b)(2)) is amended by striking ''the plan description and'' and inserting ''the latest updated summary plan description and''.

(3) Section 104(b)(4) of such Act (29 U.S.C. 1024(b)(4)) is amended by striking ''plan description''.

(4) Section 106(a) of such Act (29 U.S.C. 1026(a)) is amended by striking ''descriptions,''.

(5) Section 107 of such Act (29 U.S.C. 1027) is amended by striking ''description or''.

(6) Paragraph (2)(B) of section 108 of such Act (29 U.S.C. 1028) is amended to read as follows: ''(B) after publishing or filing the annual reports,''.

(7) Section 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)) is amended by striking ''or (5)'' and inserting ''(5), or (6)''.

(e) TECHNICAL CORRECTION.—Section 1144(c) of the Social Security Act (42 U.S.C. 1320b–14(c)) is amended by redesignating paragraph (9) as paragraph (8).

SEC. 1306. MODIFICATION OF 403(b) EXCLUSION ALLOWANCE TO CONFORM TO 415 MODIFICATIONS.

(a) DEFINITION OF COMPENSATION.—

(1) IN GENERAL.—Section 403(b)(3) (defining includible compensation) is amended by adding at the end the following: ''Such term includes—

''(A) any elective deferral (as defined in section 402(g)(3)), and

''(B) any amount which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of section 125 or 457.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 1997.

(b) REPEAL OF RULES IN SECTION 415(e).—The Secretary of the Treasury shall modify the regulations regarding the exclusion allowance under section 403(b)(2) of the Internal Revenue Code of 1986 to reflect the amendment made by section 1452(a) of the Small Business Job Protection Act of 1996. Such modification shall take effect for limitation years beginning after December 31, 1999.

SEC. 1307. NEW TECHNOLOGIES IN RETIREMENT PLANS.

(a) IN GENERAL.—Not later than December 31, 1998, the Secretary of the Treasury and the Secretary of Labor shall each issue guidance which is designed to—

(1) interpret the notice, election, consent, disclosure, and time requirements (and related recordkeeping requirements) under the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 relating to retirement plans as applied to the use of new technologies by plan sponsors and administrators

while maintaining the protection of the rights of participants and beneficiaries, and

(2) clarify the extent to which writing requirements under the Internal Revenue Code of 1986 relating to retirement plans shall be interpreted to permit paperless transactions.

(b) APPLICABILITY OF FINAL REGULATIONS.—Final regulations applicable to the guidance regarding new technologies described in subsection (a) shall not be effective until the first plan year beginning at least 6 months after the issuance of such final regulations.

SEC. 1308. EXTENSION OF MORATORIUM ON APPLICATION OF CERTAIN NONDISCRIMINATION RULES TO STATE AND LOCAL GOVERNMENTS.

(a) GENERAL NONDISCRIMINATION AND PARTICIPATION RULES.—

(1) NONDISCRIMINATION REQUIREMENTS.—Section 401(a)(5) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by adding at the end the following:

''(G) GOVERNMENTAL PLANS.—Paragraphs (3) and (4) shall not apply to a governmental plan (within the meaning of section 414(d)).''.

(2) ADDITIONAL PARTICIPATION REQUIREMENTS.—Section 401(a)(26)(H) (relating to additional participation requirements) is amended to read as follows:

''(H) EXCEPTION FOR GOVERNMENTAL PLANS.—This paragraph shall not apply to a governmental plan (within the meaning of section 414(d)).''.

(3) MINIMUM PARTICIPATION STANDARDS.—Section 410(c)(2) (relating to application of participation standards to certain plans) is amended to read as follows:

''(2) A plan described in paragraph (1) shall be treated as meeting the requirements of this section for purposes of section 401(a), except that in the case of a plan described in subparagraph (B), (C), or (D) of paragraph (1), this paragraph shall only apply if such plan meets the requirements of section 401(a)(3) (as in effect on September 1, 1974).''.

(b) PARTICIPATION STANDARDS FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS.—

(1) IN GENERAL.—Section 401(k)(3) (relating to application of participation and discrimination standards) is amended by adding at the end the following:

''(G) The requirements of subparagraph (A)(i) and (C) shall not apply to a governmental plan (within the meaning of section 414(d)).''.

(2) MATCHING CONTRIBUTIONS.—Section 401(m)(2) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR GOVERNMENTAL PLANS.—A defined contribution plan which is a governmental plan (as defined in section 414(d)) shall be treated as meeting the requirements of this paragraph.''.

(c) NONDISCRIMINATION RULES FOR SECTION 403(b) PLANS.—Section 403(b)(12) (relating to nondiscrimination requirements) is amended by adding at the end the following:

''(C) GOVERNMENTAL PLANS.—For purposes of paragraph (1)(D), the requirements of subparagraph (A)(i) (other than those relating to section 401(a)(17)) shall not apply to a governmental plan (within the meaning of section 414(d)).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section apply to taxable years beginning on or after the date of enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—A governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1986) shall be treated as satisfying the requirements of sections 401(a)(3), 401(a)(4), 401(a)(26), 401(k), 401(m), 403 (b)(1)(D) and (b)(12), and 410 of such Code for all taxable years beginning before the date of enactment of this Act.

SEC. 1309. CLARIFICATION OF CERTAIN RULES RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS OF S CORPORATIONS.

(a) CERTAIN CASH DISTRIBUTIONS PERMITTED.—

(1) Paragraph (2) of section 409(h) is amended by adding at the end the following new subparagraph:

''(B) PLAN MAINTAINED BY S CORPORATION.—In the case of a plan established and maintained by an S corporation which otherwise meets the requirements of this subsection or section 4975(e)(7), such plan shall not be treated as failing to meet the requirements of this subsection or section 401(a) merely because it does not permit a participant to exercise the right described in paragraph (1)(A) if such plan provides that the participant entitled to a distribution has a right to receive the distribution in cash.''.

(2) Paragraph (2) of section 409(h) is amended—

(A) by striking ''a plan which'' in the first sentence and inserting the following:

''(A) IN GENERAL.—A plan which'', and

(B) by moving the text before subparagraph (B) 2 ems to the right.

(b) CERTAIN SHAREHOLDER-EMPLOYEES NOT TREATED AS OWNER-EMPLOYEES.—

(1) AMENDMENT TO 1986 CODE.—The last sentence of section 4975(d) is amended by inserting '', except that this sentence shall not apply for purposes of any sale of stock by such a shareholder-employee to an employee stock ownership plan (as defined in subsection (e)(7))'' after ''owner-employee''.

(2) AMENDMENT TO ERISA.—The last sentence of section 408(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(d)) is amended by inserting '', except that this sentence shall not apply for purposes of any sale of stock by such a shareholder-employee to an employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1986)'' after ''owner-employee''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1310. MODIFICATION OF 10 PERCENT TAX FOR NONDEDUCTIBLE CONTRIBUTIONS.

(a) IN GENERAL.—Section 4972(c)(6)(B) (relating to exceptions) is amended to read as follows:

''(B) so much of the contributions to 1 or more defined contribution plans which are not deductible when contributed solely because of section 404(a)(7) as does not exceed the greater of—

''(i) the amount of contributions not in excess of 6 percent of compensation (within the meaning of section 404(a)) paid or accrued (during the taxable year for which the contributions were made) to beneficiaries under the plans, or

''(ii) the sum of—

''(I) the amount of contributions described in section 401(m)(4)(A), plus

''(II) the amount of contributions described in section 402(g)(3)(A).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1311. MODIFICATION OF FUNDING REQUIREMENTS FOR CERTAIN PLANS.

(a) FUNDING RULES FOR CERTAIN PLANS.—Section 769 of the Retirement Protection Act of 1994 is amended by adding at the end the following new subsection:

''(c) TRANSITION RULES FOR CERTAIN PLANS.—

''(1) IN GENERAL.—In the case of a plan that—

''(A) was not required to pay a variable rate premium for the plan year beginning in 1996;

''(B) has not, in any plan year beginning after 1995 and before 2009, merged with another plan (other than a plan sponsored by an employer that was in 1996 within the controlled group of the plan sponsor); and

''(C) is sponsored by a company that is engaged primarily in the interurban or interstate passenger bus service,

the transition rules described in paragraph (2) shall apply for any plan year beginning after 1996 and before 2010.

''(2) TRANSITION RULES.—The transition rules described in this paragraph are as follows:

''(A) For purposes of section 412(l)(9)(A) of the Internal Revenue Code of 1986 and section 302(d)(9)(A) of the Employee Retirement Income Security Act of 1974—

''(i) the funded current liability percentage for any plan year beginning after 1996 and before 2005 shall be treated as not less than 90 percent if for such plan year the funded current liability percentage is at least 85 percent, and

''(ii) the funded current liability percentage for any plan year beginning after 2004 and before 2010 shall be treated as not less than 90 percent if for such plan year the funded current liability percentage satisfies the minimum percentage determined according to the following table:

''In the case of a plan year beginning in:	*The minimum percentage is:*
2005	*86 percent*
2006	*87 percent*
2007	*88 percent*
2008	*89 percent*
2009 and thereafter	*90 percent.*

''(B) Sections 412(c)(7)(E)(i)(I) of such Code and 302(c)(7)(E)(i)(I) of such Act shall be applied—

''(i) by substituting '85 percent' for '90 percent' for plan years beginning after 1996 and before 2005, and

''(ii) by substituting the minimum percentage specified in the table contained in subparagraph (A)(ii) for '90 percent' for plan years beginning after 2004 and before 2010.

''(C) In the event the funded current liability percentage of a plan is less than 85 percent for any plan year beginning after 1996 and before 2005, the transition rules under subparagraphs (A) and (B) shall continue to apply to the plan if contributions for such a plan year are made to the plan in an amount equal to the lesser of—

''(i) the amount necessary to result in a funded current liability percentage of 85 percent, or

''(ii) the greater of—

''(I) 2 percent of the plan's current liability as of the beginning of such plan year, or

''(II) the amount necessary to result in a funded current liability percentage of 80 percent as of the end of such plan year.

For the plan year beginning in 2005 and for the 3 succeeding plan years, the transition rules under subparagraphs (A) and (B) shall continue to apply to the plan for such plan year only if contributions to the plan equal at least the expected increase in current liability due to benefits accruing during such plan year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions due after December 31, 1997.

TITLE XIV—TECHNICAL AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996 AND OTHER LEGISLATION

SEC. 1401. AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996.

(a) AMENDMENTS RELATED TO SUBTITLE A.—

(1) AMENDMENT RELATED TO SECTION 1116.—Paragraph (1) of section 6050R(c) is amended by striking ''name and address'' and inserting ''name, address, and phone number of the information contact''.

(2) AMENDMENT TO SECTION 1116.—Paragraphs (1) and (2)(C) of section 1116(b) of the Small Business Job Protection Act of 1996 shall each be applied as if the reference to chapter 68 were a reference to chapter 61.

(b) AMENDMENT RELATED TO SUBTITLE B.—Subsection (c) of section 52 is amended by striking ''targeted jobs credit'' and inserting ''work opportunity credit''.

(c) AMENDMENTS RELATED TO SUBTITLE C.—

(1) AMENDMENT RELATED TO SECTION 1302.—Subparagraph (B) of section 1361(e)(1) is amended by striking ''and'' at the end of clause (i), striking the period at the end of clause (ii) and inserting '', and'', and adding at the end the following new clause:

''(iii) any charitable remainder annuity trust or charitable remainder unitrust (as defined in section 664(d)).''.

(2) EFFECTIVE DATE FOR SECTION 1307.—

(A) Notwithstanding section 1317 of the Small Business Job Protection Act of 1996, the amendments made by subsections (a) and (b) of section 1307 of such Act shall apply to determinations made after December 31, 1996.

(B) In no event shall the 120-day period referred to in section 1377(b)(1)(B) of the Internal Revenue Code of 1986 (as added by such section 1307) expire before the end of the 120-day period beginning on the date of the enactment of this Act.

(3) AMENDMENT RELATED TO SECTION 1308.—Subparagraph (A) of section 1361(b)(3) is amended by striking ''For purposes of this title'' and inserting ''Except as provided in regulations prescribed by the Secretary, for purposes of this title''.

(4) AMENDMENTS RELATED TO SECTION 1316.—

(A) Paragraph (2) of section 512(e) is amended by striking ''within the meaning of section 1012'' and inserting ''as defined in section 1361(e)(1)(C)''.

(B) Paragraph (7) of section 1361(c) is redesignated as paragraph (6).

(C) Subparagraph (B) of section 1361(b)(1) is amended by striking ''subsection (c)(7)'' and inserting ''subsection (c)(6)''.

(D) Paragraph (1) of section 512(e) is amended by striking ''section 1361(c)(7)'' and inserting ''section 1361(e)(6)''.

(d) AMENDMENTS RELATED TO SUBTITLE D.—

(1) AMENDMENTS RELATED TO SECTION 1421.—

(A) Subsection (i) of section 408 is amended in the last sentence by striking ''30 days'' and inserting ''31 days''.

(B) Subparagraph (H) of section 408(k)(6) is amended by striking ''if the terms of such pension'' and inserting ''of an employer if the terms of simplified employee pensions of such employer''.

(C)(i) Subparagraph (B) of section 408(l)(2) is amended—

(I) by inserting ''and the issuer of an annuity established under such an arrangement'' after ''under subsection (p)'', and

(II) in clause (i), by inserting ''or issuer'' after ''trustee''.

(ii) Paragraph (2) of section 6693(c) is amended—

(I) by inserting ''or issuer'' after ''trustee'', and

(II) in the heading, by inserting ''AND ISSUER'' after ''trustee''.

(D) Subsection (p) of section 408 is amended by adding at the end the following new paragraph:

''(8) COORDINATION WITH MAXIMUM LIMITATION UNDER SUBSECTION (a).—In the case of any simple retirement account, subsections (a)(1) and (b)(2) shall be applied by substituting 'the sum of the dollar amount in effect under paragraph (2)(A)(ii) of this subsection and the employer contribution required under subparagraph (A)(iii) or (B)(i) of paragraph (2) of this subsection, whichever is applicable' for '$2,000'.''.

(E) Clause (i) of section 408(p)(2)(D) is amended by adding at the end the following new sentence: ''If only individuals other than employees described in subparagraph (A) or (B) of section 410(b)(3) are eligible to participate in such arrangement, then the preceding sentence shall be applied without regard to any qualified plan in which only employees so described are eligible to participate.''.

(F) Subparagraph (D) of section 408(p)(2) is amended by adding at the end the following new clause:

''(iii) GRACE PERIOD.—In the case of an employer who establishes and maintains a plan under this subsection for 1 or more years and who fails to meet any requirement of this subsection for any subsequent year due to any acquisition, disposition, or similar transaction involving another such employer, rules similar to the rules of section 410(b)(6)(C) shall apply for purposes of this subparagraph.''.

(G) Paragraph (5) of section 408(p) is amended in the text preceding subparagraph (A) by striking ''simplified'' and inserting ''simple''.

(2) AMENDMENTS RELATED TO SECTION 1422.—

(A) Clause (ii) of section 401(k)(11)(D) is amended by striking the period and inserting ''if such plan allows only contributions required under this paragraph.''.

(B) Paragraph (11) of section 401(k) is amended by adding at the end the following new subparagraph:

''(E) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $6,000 amount under subparagraph (B)(i)(I) at the same time and in the same manner as under section 408(p)(2)(E).''.

(C) Subparagraph (A) of section 404(a)(3) is amended—

(i) in clause (i), by striking ''not in excess of'' and all that follows and inserting the following: ''not in excess of the greater of—

''(I) 15 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under the stock bonus or profit-sharing plan, or

''(II) the amount such employer is required to contribute to such trust under section 401(k)(11) for such year.'', and

(ii) in clause (ii), by striking ''15 percent'' and all that follows and inserting the following ''the amount described in subclause (I) or (II) of clause (i), whichever is greater, with respect to such taxable year.''.

(D) Subparagraph (B) of section 401(k)(11) is amended by adding at the end the following new clause:

''(iii) ADMINISTRATIVE REQUIREMENTS.—

''(I) IN GENERAL.—Rules similar to the rules of subparagraphs (B) and (C) of section 408(p)(5) shall apply for purposes of this subparagraph.

''(II) NOTICE OF ELECTION PERIOD.—The requirements of this subparagraph shall not be treated as met with respect to any year unless the employer notifies each employee eligible to participate, within a reasonable period of time before the 60th day before the beginning of such year (and, for the first year the employee is so eligible, the 60th day before the first day such employee is so eligible), of the rules similar to the rules of section 408(p)(5)(C) which apply by reason of subclause (I).''.

(3) AMENDMENT RELATED TO SECTION 1433.—The heading of paragraph (11) of section 401(m) is amended by striking ''ALTERNATIVE'' and inserting ''ADDITIONAL ALTERNATIVE''.

(4) AMENDMENTS RELATED TO SECTION 1461.—

(A) Section 415(e)(5)(A) is amended to read as follows:

''(A) CERTAIN MINISTERS MAY PARTICIPATE.—For purposes of this part—

''(i) IN GENERAL.—A duly ordained, commissioned, or licensed minister of a church is described in paragraph (3)(B) if, in connection with the exercise of their ministry, the minister—

''(I) is a self-employed individual (within the meaning of section 401(c)(1)(B), or

''(II) is employed by an organization other than an organization which is described in section 501(c)(3) and with respect to which the minister shares common religious bonds.

''(ii) TREATMENT AS EMPLOYER AND EMPLOYEE.—For purposes of sections 403(b)(1)(A) and 404(a)(10), a minister described in clause (i)(I) shall be treated as employed by the minister's own employer which is an organization described in section 501(c)(3) and exempt from tax under section 501(a).''.

(B) Section 403(b)(1)(A) is amended by striking ''or'' at the end of clause (i), by inserting ''or'' at the end of clause (ii), and by adding at the end the following new clause:

''(iii) for the minister described in section 415(e)(5)(A) by the minister or by an employer,''.

(5) AMENDMENT RELATED TO SECTION 1462.—The paragraph (7) of section 414(q) added by section 1462 of the Small Business Job Protection Act of 1996 is redesignated as paragraph (9).

(6) CLARIFICATION OF SECTION 1450.—

(A) Section 403(b)(11) of the Internal Revenue Code of 1986 shall not apply with respect to a distribution from a contract described in section 1450(b)(1) of such Act to the extent that such distribution is not includible in income by reason of section 403(b)(8) of such Code (determined after the application of section 1450(b)(2) of such Act).

(B) This paragraph shall apply as if included in section 1450 of the Small Business Job Protection Act of 1996.

(e) AMENDMENT RELATED TO SUBTITLE E.—Subparagraph (A) of section 956(b)(1) is amended by inserting ''to the extent such amount was accumulated in prior taxable years'' after ''section 316(a)(1)''.

(f) AMENDMENTS RELATED TO SUBTITLE F.—

(1) AMENDMENTS RELATED TO SECTION 1601.—

(A) The heading of section 30A is amended to read as follows:

''SEC. 30A. PUERTO RICO ECONOMIC ACTIVITY CREDIT.''.

(B) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended in the item relating to section 30A by striking ''Puerto Rican'' and inserting ''Puerto Rico''.

(C) Paragraph (1) of section 55(c) is amended by striking ''Puerto Rican'' and inserting ''Puerto Rico''.

(2) AMENDMENTS RELATED TO SECTION 1606.—

(A) Clause (ii) of section 9503(c)(2)(A) is amended by striking ''(or with respect to qualified diesel-powered highway vehicles purchased before January 1, 1999)''.

(B) Subparagraph (A) of section 9503(e)(5) is amended by striking ''; except that'' and all that follows and inserting a period.

(3) AMENDMENTS RELATED TO SECTION 1607.—

(A) Subsection (f) of section 4001 (relating to phasedown of tax on luxury passenger automobiles) is amended—

(i) by inserting ''and section 4003(a)'' after ''subsection (a)'', and

(ii) by inserting '', each place it appears,'' before ''the percentage''.

(B) Subsection (g) of section 4001 (relating to termination) is amended by striking ''tax imposed by this section'' and inserting ''taxes imposed by this section and section 4003'' and by striking ''or use'' and inserting '', use, or installation''.

(4) AMENDMENTS RELATED TO SECTION 1609.—

(A) Subsection (l) of section 4041 is amended—

(i) by inserting ''or a fixed-wing aircraft'' after ''helicopter'', and

(ii) in the heading, by striking ''HELICOPTER''.

(B) The last sentence of section 4041(a)(2) is amended by striking ''section 4081(a)(2)(A)'' and inserting ''section 4081(a)(2)(A)(i)''.

(C) Subsection (b) of section 4092 is amended by striking ''section 4041(c)(4)'' and inserting ''section 4041(c)(2)''.

(D) Subsection (g) of section 4261 (as redesignated by title X) is amended by inserting ''on that flight'' after ''dedicated''.

(E) Paragraph (1) of section 1609(h) of such Act is amended by striking ''paragraph (3)(A)(i)'' and inserting ''paragraph (3)(A)''.

(F) Paragraph (4) of section 1609(h) of such Act is amended by inserting before the period ''or exclusively for the use described in section 4092(b) of such Code''.

(5) AMENDMENTS RELATED TO SECTION 1616.—

(A) Subparagraph (A) of section 593(e)(1) is amended by inserting ''(and, in the case of an S corporation, the accumulated adjustments account, as defined in section 1368(e)(1))'' after ''1951,''.

(B) Paragraph (7) of section 1374(d) is amended by adding at the end the following new sentence: ''For purposes of applying this section to

any amount includible in income by reason of section 593(e), the preceding sentence shall be applied without regard to the phrase '10-year'.''.

(6) AMENDMENTS RELATED TO SECTION 1621.—

(A) Subparagraph (A) of section 860L(b)(1) is amended in the text preceding clause (i) by striking ''after the startup date'' and inserting ''on or after the startup date''.

(B) Paragraph (2) of section 860L(d) is amended by striking ''section 860I(c)(2)'' and inserting ''section 860I(b)(2)''.

(C) Subparagraph (B) of section 860L(e)(2) is amended by inserting ''other than foreclosure property'' after ''any permitted asset''.

(D) Subparagraph (A) of section 860L(e)(3) is amended by striking ''if the FASIT'' and all that follows and inserting the following new flush text after clause (ii):

''if the FASIT were treated as a REMIC and permitted assets (other than cash or cash equivalents) were treated as qualified mortgages.''.

(E)(i) Paragraph (3) of section 860L(e) is amended by adding at the end the following new subparagraph:

''(D) INCOME FROM DISPOSITIONS OF FORMER HEDGE ASSETS.—Paragraph (2)(A) shall not apply to income derived from the disposition of—

''(i) an asset which was described in subsection (c)(1)(D) when first acquired by the FASIT but on the date of such disposition was no longer described in subsection (c)(1)(D)(ii), or

''(ii) a contract right to acquire an asset described in clause (i).''.

(ii) Subparagraph (A) of section 860L(e)(2) is amended by inserting ''except as provided in paragraph (3),'' before ''the receipt''.

(g) AMENDMENTS RELATED TO SUBTITLE G.—

(1) EXTENSION OF PERIOD FOR CLAIMING REFUNDS FOR ALCOHOL FUELS.—Notwithstanding section 6427(i)(3)(C) of the Internal Revenue Code of 1986, a claim filed under section 6427(f) of such Code for any period after September 30, 1995, and before October 1, 1996, shall be treated as timely filed if filed before the 60th day after the date of the enactment of this Act.

(2) AMENDMENTS TO SECTIONS 1703 AND 1704.—Sections 1703(n)(8) and 1704(j)(4)(B) of the Small Business Job Protection Act of 1996 shall each be applied as if such sections referred to section 1702 instead of section 1602.

(h) AMENDMENTS RELATED TO SUBTITLE H.—

(1) AMENDMENTS RELATED TO SECTION 1806.—

(A) Subparagraph (B) of section 529(e)(1) is amended by striking ''subsection (c)(2)(C)'' and inserting ''subsection (c)(3)(C)''.

(B) Subparagraph (C) of section 529(e)(1) is amended by inserting ''(or agency or instrumentality thereof)'' after ''local government''.

(C) Paragraph (2) of section 1806(c) of the Small Business Job Protection Act of 1996 is amended by striking so much of the first sentence as follows subparagraph (B)(ii) and inserting the following:

''then such program (as in effect on August 20, 1996) shall be treated as a qualified State tuition program with respect to contributions (and earnings allocable thereto) pursuant to contracts entered into under such program before the first date on which such program meets such requirements (determined without regard to this paragraph) and the provisions of such program (as so in effect) shall apply in lieu of section 529(b) of the Internal Revenue Code of 1986 with respect to such contributions and earnings.''.

(2) AMENDMENTS RELATED TO SECTION 1807.—

(A) Paragraph (2) of section 23(a) is amended to read as follows:

''(2) YEAR CREDIT ALLOWED.—The credit under paragraph (1) with respect to any expense shall be allowed—

''(A) in the case of any expense paid or incurred before the taxable year in which such adoption becomes final, for the taxable year following the taxable year during which such expense is paid or incurred, and

''(B) in the case of an expense paid or incurred during or after the taxable year in which such adoption becomes final, for the taxable year in which such expense is paid or incurred.''.

(B) Subparagraph (B) of section 23(b)(2) is amended by striking ''determined—'' and all that follows and inserting the following: ''determined without regard to sections 911, 931, and 933.''.

(C) Paragraph (1) of section 137(b) (relating to adoption assistance programs) is amended by striking ''amount excludable from gross income'' and inserting ''of the amounts paid or expenses incurred which may be taken into account''.

(D)(i) Subparagraph (C) of section 414(n)(3) is amended by inserting ''137,'' after ''132,''.

(ii) Paragraph (2) of section 414(t) is amended by inserting ''137,'' after ''132,''.

(iii) Paragraph (1) of section 6039D(d) is amended by striking ''or 129'' and inserting ''129, or 137''.

(i) AMENDMENTS RELATED TO SUBTITLE I.—

(1) AMENDMENT RELATED TO SECTION 1901.—Subsection (b) of section 6048 is amended in the heading by striking ''GRANTOR'' and inserting ''OWNER''.

(2) AMENDMENTS RELATED TO SECTION 1903.—

Clauses (ii) and (iii) of section 679(a)(3)(C) are each amended by inserting '', owner,'' after ''grantor''.

(3) AMENDMENTS RELATED TO SECTION 1907.—

(A) Clause (ii) of section 7701(a)(30)(E) is amended by striking ''fiduciaries'' and inserting ''persons''.

(B) Subsection (b) of section 641 is amended by adding at the end the following new sentence: ''For purposes of this subsection, a foreign trust or foreign estate shall be treated as a nonresident alien individual who is not present in the United States at any time.''.

(4) EFFECTIVE DATE RELATED TO SUBTITLE I.—The Secretary of the Treasury may by regulations or other administrative guidance provide that the amendments made by section 1907(a) of the Small Business Job Protection Act of 1996 shall not apply to a trust with respect to a reasonable period beginning on the date of the enactment of such Act, if—

(A) such trust is in existence on August 20, 1996, and is a United States person for purposes of the Internal Revenue Code of 1986 on such date (determined without regard to such amendments),

(B) no election is in effect under section 1907(a)(3)(B) of such Act with respect to such trust,

(C) before the expiration of such reasonable period, such trust makes the modifications necessary to be treated as a United States person for purposes of such Code (determined with regard to such amendments), and

(D) such trust meets such other conditions as the Secretary may require.

(j) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect as if included in the provisions of the Small Business Job Protection Act of 1996 to which they relate.

(2) CERTAIN ADMINISTRATIVE REQUIREMENTS WITH RESPECT TO CERTAIN PENSION PLANS.—The amendment made by subsection (d)(2)(D) shall apply to calendar years beginning after the date of the enactment of this Act.

SEC. 1402. AMENDMENTS RELATED TO HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996.

(a) AMENDMENTS RELATED TO SECTION 301.—

(1) Paragraph (2) of section 26(b) is amended by striking ''and'' at the end of subparagraph (N), by striking the period at the end of subparagraph (O) and inserting '', and'', and by adding at the end the following new subparagraph:

''(P) section 220(f)(4) (relating to additional tax on medical savings account distributions not used for qualified medical expenses).''.

(2) Paragraph (3) of section 220(c) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively.

(3) Subparagraph (C) of section 220(d)(2) is amended by striking ''an eligible individual'' and inserting ''described in clauses (i) and (ii) of subsection (c)(1)(A)''.

(4) Subsection (a) of section 6693 is amended by adding at the end the following new sentence:

''This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(X).''.

(5) Paragraph (4) of section 4975(d) is amended by striking ''if, with respect to such transaction'' and all that follows and inserting the following: ''if section 220(e)(2) applies to such transaction.''.

(b) AMENDMENT RELATED TO SECTION 321.—Subparagraph (B) of section 7702B(c)(2) is amended in the last sentence by inserting ''described in subparagraph (A)(i)'' after ''chronically ill individual''.

(c) AMENDMENT RELATED TO SECTION 322.—Subparagraph (B) of section 162(l)(2) is amended by adding at the end the following new sentence: ''The preceding sentence shall be applied separately with respect to—

''(i) plans which include coverage for qualified long-term care services (as defined in section 7702B(c)) or are qualified long-term care insurance contracts (as defined in section 7702B(b)), and

''(ii) plans which do not include such coverage and are not such contracts.''.

(d) AMENDMENTS RELATED TO SECTION 323.—

(1) Paragraph (1) of section 6050Q(b) is amended by inserting '', address, and phone number of the information contact'' after ''name''.

(2)(A) Paragraph (2) of section 6724(d) is amended by striking so much as follows subparagraph (Q) and precedes the last sentence, and inserting the following new subparagraphs:

''(R) section 6050R(c) (relating to returns relating to certain purchases of fish),

''(S) section 6051 (relating to receipts for employees),

''(T) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance),

''(U) section 6053(b) or (c) (relating to reports of tips),

''(V) section 6048(b)(1)(B) (relating to foreign trust reporting requirements),

''(W) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels),

''(X) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

''(Y) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person.''.

(B) Subsection (e) of section 6652 is amended in the last sentence by striking ''section 6724(d)(2)(X)'' and inserting ''section 6724(d)(2)(Y)''.

(e) AMENDMENT RELATED TO SECTION 325.—Clauses (ii) and (iii) of section 7702B(g)(4)(B) are each amended by striking ''Secretary'' and inserting ''appropriate State regulatory agency''.

(f) AMENDMENTS RELATED TO SECTION 501.—

(1) Paragraph (4) of section 264(a) is amended by striking subparagraph (A) and all that follows through ''by the taxpayer.'' and inserting the following:

''(A) is or was an officer or employee, or

''(B) is or was financially interested in,

any trade or business carried on (currently or formerly) by the taxpayer.''.

(2) The last 2 sentences of section 264(d)(2)(B)(ii) are amended to read as follows: ''For purposes of subclause (II), the term 'applicable period' means the 12-month period beginning on the date the policy is issued (and each

successive 12-month period thereafter) unless the taxpayer elects a number of months (not greater than 12) other than such 12-month period to be its applicable period. Such an election shall be made not later than the 90th day after the date of the enactment of this sentence and, if made, shall apply to the taxpayer's first taxable year ending on or after October 13, 1995, and all subsequent taxable years unless revoked with the consent of the Secretary.''.

(3) Subparagraph (B) of section 264(d)(4) is amended by striking ''the employer'' and inserting ''the taxpayer''.

(4) Subsection (c) of section 501 of the Health Insurance Portability and Accountability Act of 1996 is amended by striking paragraph (3).

(5) Paragraph (2) of section 501(d) of such Act is amended by striking ''no additional premiums'' and all that follows and inserting the following: ''a lapse occurring by reason of no additional premiums being received under the contract after October 13, 1995.''.

(g) AMENDMENTS RELATED TO SECTION 511.—

(1) Subparagraph (B) of section 877(d)(2) is amended by striking ''the 10-year period described in subsection (a)'' and inserting ''the 10-year period beginning on the date the individual loses United States citizenship''.

(2) Subparagraph (D) of section 877(d)(2) is amended by adding at the end the following new sentence: ''In the case of any exchange occurring during such 5 years, any gain recognized under this subparagraph shall be recognized immediately after such loss of citizenship.''.

(3) Paragraph (3) of section 877(d) is amended by inserting ''and the period applicable under paragraph (2)'' after ''subsection (a)''.

(4) Subparagraph (A) of section 877(d)(4) is amended—

(A) by inserting ''during the 10-year period beginning on the date the individual loses United States citizenship'' after ''contributes property'' in clause (i),

(B) by inserting ''immediately before such contribution'' after ''from such property'', and

(C) by striking ''during the 10-year period referred to in subsection (a),''.

(5) Subparagraph (C) of section 2501(a)(3) is amended by striking ''decedent'' and inserting ''donor''.

(6)(A) Clause (i) of section 2107(c)(2)(A) is amended by striking ''such foreign country in respect of property included in the gross estate'' and inserting ''such foreign country''.

(B) Subparagraph (C) of section 2107(c)(2) is amended to read as follows:

''(C) PROPORTIONATE SHARE.—In the case of property which is included in the gross estate solely by reason of subsection (b), such property's proportionate share is the percentage which the value of such property bears to the total value of all property included in the gross estate solely by reason of subsection (b).''.

(h) AMENDMENTS RELATED TO SECTION 512.—

(1) Subpart A of part III of subchapter A of chapter 61 is amended by redesignating the section 6039F added by section 512 of the Health Insurance Portability and Accountability Act of 1996 as section 6039G and by moving such section 6039G to immediately after the section 6039F added by section 1905 of the Small Business Job Protection Act of 1996.

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking the item relating to the section 6039F related to information on individuals losing United States citizenship and inserting after the item relating to the section 6039F related to notice of large gifts received from foreign persons the following new item:

''Sec. 6039G. Information on individuals losing United States citizenship.''.

(3) Paragraph (1) of section 877(e) is amended by striking ''6039F'' and inserting ''6039G''.

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Health Insurance Portability and Accountability Act of 1996 to which such amendments relate.

SEC. 1403. AMENDMENTS RELATED TO TAXPAYER BILL OF RIGHTS 2.

(a) AMENDMENT RELATED TO SECTION 1311.—Subsection (b) of section 4962 is amended by striking ''subchapter A or C'' and inserting ''subchapter A, C, or D''.

(b) AMENDMENTS RELATED TO SECTION 1312.—

(1)(A) Paragraph (10) of section 6033(b) is amended by striking all that precedes subparagraph (A) and inserting the following:

''(10) the respective amounts (if any) of the taxes imposed on the organization, or any organization manager of the organization, during the taxable year under any of the following provisions (and the respective amounts (if any) of reimbursements paid by the organization during the taxable year with respect to taxes imposed on any such organization manager under any of such provisions):''.

(B) Subparagraph (C) of section 6033(b)(10) is amended by adding at the end the following: ''except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded,''.

(2) Paragraph (11) of section 6033(b) is amended to read as follows:

''(11) the respective amounts (if any) of—

''(A) the taxes imposed with respect to the organization on any organization manager, or any disqualified person, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations), and

''(B) reimbursements paid by the organization during the taxable year with respect to taxes imposed under such section,

except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Taxpayer Bill of Rights 2 to which such amendments relate.

SEC. 1404. MISCELLANEOUS PROVISIONS.

(a) AMENDMENTS RELATED TO ENERGY POLICY ACT OF 1992.—

(1) Paragraph (1) of section 263(a) is amended by striking ''or'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting ''; or'', and by adding at the end the following new subparagraph:

''(H) expenditures for which a deduction is allowed under section 179A.''.

(2) Subparagraph (B) of section 312(k)(3) is amended—

(A) by striking ''179'' in the heading and the first place it appears in the text and inserting ''179 or 179A'', and

(B) by striking ''179'' the last place it appears and inserting ''179 or 179A, as the case may be''.

(3) Paragraphs (2)(C) and (3)(C) of section 1245(a) are each amended by inserting ''179A,'' after ''179,''.

(4) The amendments made by this subsection shall take effect as if included in the amendments made by section 1913 of the Energy Policy Act of 1992.

(b) AMENDMENTS RELATED TO URUGUAY ROUND AGREEMENTS ACT.—

(1) Paragraph (1) of section 6621(a) is amended in the last sentence by striking ''subsection (c)(3))'' and inserting ''subsection (c)(3), applied by substituting 'overpayment' for 'underpayment')''.

(2) Subclause (II) of section 412(m)(5)(E)(ii) is amended by striking ''clause (i)'' and inserting ''subclause (I)''.

(3) Subparagraph (A) of section 767(d)(3) of the Uruguay Round Agreements Act is amended in the last sentence by striking ''(except that'' and all that follows through ''into account)''.

(4) The amendments made by this subsection shall take effect as if included in the sections of the Uruguay Round Agreements Act to which they relate.

(c) AMENDMENT RELATED TO TAX REFORM ACT OF 1986.—Paragraph (3) of section 1059(d) is amended by striking ''subsection (a)(2)'' and inserting ''subsection (a)''.

(d) AMENDMENT RELATED TO TAX REFORM ACT OF 1984.—

(1) Section 267(f) is amended by adding at the end the following new paragraph:

''(4) DETERMINATION OF RELATIONSHIP RESULTING IN DISALLOWANCE OF LOSS, FOR PURPOSES OF OTHER PROVISIONS.—For purposes of any other section of this title which refers to a relationship which would result in a disallowance of losses under this section, deferral under paragraph (2) shall be treated as disallowance.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in section 174(b) of the Tax Reform Act of 1984.

(e) CLERICAL AMENDMENTS.—

(1) Clause (iii) of section 163(j)(2)(B) is amended by striking ''clause (i)'' and inserting ''clause (ii)''.

(2) Paragraph (1) of section 665(d) is amended in the last sentence by striking ''or 669(d) and (e)''.

(3) Subsection (g) of section 1441 (relating to cross reference) is amended by striking ''one-half'' and inserting ''85 percent''.

(4) Paragraph (1) of section 2523(g) is amended by striking ''qualified remainder trust'' and inserting ''qualified charitable remainder trust''.

(5) Subsection (d) of section 9502 is amended by redesignating the paragraph added by section 806 of the Federal Aviation Reauthorization Act of 1996 as paragraph (6).

TITLE XV—CHILDREN'S HEALTH INSURANCE INITIATIVES

SEC. 1501. ESTABLISHMENT OF CHILDREN'S HEALTH INSURANCE INITIATIVES.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following:

''TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES

''SEC. 2101. PURPOSE.

''The purpose of this title is to provide funds to States to enable such States to expand the provision of health insurance coverage for low-income children. Funds provided under this title shall be used to achieve this purpose through outreach activities described in section 2106(a) and, at the option of the State through—

''(1) a grant program conducted in accordance with section 2107 and the other requirements of this title; or

''(2) expansion of coverage of such children under the State medicaid program who are not required to be provided medical assistance under section 1902(l) (taking into account the process of individuals aging into eligibility under subsection (l)(1)(D)).

''SEC. 2102. DEFINITIONS.

''In this title:

''(1) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—The term 'base-year covered low-income child population' means the total number of low-income children with respect to whom, as of fiscal year 1996, an eligible State provides or pays the cost of health benefits either through a State funded program or through expanded eligibility under the State plan under title XIX (including under a waiver of such plan), as determined by the Secretary. Such term does not include any low-income child described in paragraph (3)(A) that a State must cover in order to be considered an eligible State under this title.

''(2) CHILD.—The term 'child' means an individual under 19 years of age.

''(3) ELIGIBLE STATE.—The term 'eligible State' means, with respect to a fiscal year, a State that—

''(A) provides, under section 1902(l)(1)(D) or under a waiver, for eligibility for medical assistance under a State plan under title XIX of individuals under 17 years of age in fiscal year 1998,

and under 19 years of age in fiscal year 2000, regardless of date of birth;

''(B) has submitted to the Secretary under section 2104 a program outline that—

''(i) sets forth how the State intends to use the funds provided under this title to provide health insurance coverage for low-income children consistent with the provisions of this title; and

''(ii) is approved under section 2104; and

''(iii) otherwise satisfies the requirements of this title; and

''(C) satisfies the maintenance of effort requirement described in section 2105(c)(5).

''(4) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means, with respect to a State, the meaning given that term under section 1905(b). Any cost-sharing imposed under this title may not be included in determining Federal medical assistance percentage for reimbursement of expenditures under a State program funded under this title.

''(5) FEHBP-EQUIVALENT CHILDREN'S HEALTH INSURANCE COVERAGE.—The term 'FEHBP-equivalent children's health insurance coverage' means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are equivalent to or better than the services covered for a child, including hearing and vision services, under the standard Blue Cross/Blue Shield preferred provider option service benefit plan offered under chapter 89 of title 5, United States Code.

''(6) INDIANS.—The term 'Indians' has the meaning given that term in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

''(7) LOW-INCOME CHILD.—The term 'low-income child' means a child in a family whose income is below 200 percent of the poverty line for a family of the size involved.

''(8) POVERTY LINE.—The term 'poverty line' has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

''(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''(10) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

''(11) STATE CHILDREN'S HEALTH EXPENDITURES.—The term 'State children's health expenditures' means the State share of expenditures by the State for providing children with health care items and services under—

''(A) the State plan for medical assistance under title XIX;

''(B) the maternal and child health services block grant program under title V;

''(C) the preventive health services block grant program under part A of title XIX of the Public Health Services Act (42 U.S.C. 300w et seq.);

''(D) State-funded programs that are designed to provide health care items and services to children;

''(E) school-based health services programs;

''(F) State programs that provide uncompensated or indigent health care;

''(G) county-indigent care programs for which the State requires a matching share by a county government or for which there are intergovernmental transfers from a county to State government; and

''(H) any other program under which the Secretary determines the State incurs uncompensated expenditures for providing children with health care items and services.

''(12) STATE MEDICAID PROGRAM.—The term 'State medicaid program' means the program of medical assistance provided under title XIX.

''SEC. 2103. APPROPRIATION.

''(a) APPROPRIATION.—

''(1) IN GENERAL.—Subject to subsection (b), out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for the purpose of carrying out this title—

''(A) for each of fiscal years 1998 and 1999, $1,000,000,000;

''(B) for each of fiscal years 2000 through 2002, $2,000,000,000; and

''(C) for each of fiscal years 2003 through 2007, $0.

''(2) AVAILABILITY.—Funds appropriated under this section shall remain available without fiscal year limitation, as provided under section 2105(b)(4).

''(b) REDUCTION FOR INCREASED MEDICAID EXPENDITURES.—With respect to each of the fiscal years described in subsection (a)(1), the amount appropriated under subsection (a)(1) for each such fiscal year shall be reduced by an amount equal to the amount of the total Federal outlays under the medicaid program under title XIX resulting from—

''(1) the amendment made by section 5732 of the Balanced Budget Act of 1997 (regarding the State option to provide 12-month continuous eligibility for children);

''(2) increased enrollment under State plans approved under such program as a result of outreach activities under section 2106(a); and

''(3) the requirement under section 2102(3)A) to provide eligibility for medical assistance under the State plan under title XIX for all children under 19 years of age who have families with income that is at or below the poverty line.

''(c) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this title.

''(d) EFFECTIVE DATE.—No State is eligible for payments under section 2105 for any calendar quarter beginning before October 1, 1997.

''SEC. 2104. PROGRAM OUTLINE.

''(a) GENERAL DESCRIPTION.—A State shall submit to the Secretary for approval a program outline, consistent with the requirements of this title, that—

''(1) identifies, on or after the date of enactment of the Balanced Budget Act of 1997, which of the 2 options described in section 2101 the State intends to use to provide low-income children in the State with health insurance coverage;

''(2) describes the manner in which such coverage shall be provided; and

''(3) provides such other information as the Secretary may require.

''(b) OTHER REQUIREMENTS.—The program outline submitted under this section shall include the following:

''(1) ELIGIBILITY STANDARDS AND METHODOLOGIES.—A summary of the standards and methodologies used to determine the eligibility of low-income children for health insurance coverage under a State program funded under this title.

''(2) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE.—A description of the procedures to be used to ensure—

''(A) through both intake and followup screening, that only low-income children are furnished health insurance coverage through funds provided under this title; and

''(B) that any health insurance coverage provided for children through funds under this title does not reduce the number of children who are provided such coverage through any other publicly or privately funded health plan.

''(3) INDIANS.—A description of how the State will ensure that Indians are served through a State program funded under this title.

''(c) DEADLINE FOR SUBMISSION.—A State program outline shall be submitted to the Secretary by not later than March 31 of any fiscal year (October 1, 1997, in the case of fiscal year 1998).

''SEC. 2105. DISTRIBUTION OF FUNDS.

''(a) ESTABLISHMENT OF FUNDING POOLS.—

''(1) IN GENERAL.—From the amount appropriated under section 2103(a)(1) for each fiscal year, determined after the reduction required under section 2103(b), the Secretary shall, for purposes of fiscal year 1998, reserve 85 percent of such amount for distribution to eligible States through the basic allotment pool under subsection (b) and 15 percent of such amount for distribution through the new coverage incentive pool under subsection (c)(2)(B)(ii).

''(2) ANNUAL ADJUSTMENT OF RESERVE PERCENTAGES.—The Secretary shall annually adjust the amount of the percentages described in paragraph (1) in order to provide sufficient basic allotments and sufficient new coverage incentives to achieve the purpose of this title.

''(b) DISTRIBUTION OF FUNDS UNDER THE BASIC ALLOTMENT POOL.—

''(1) STATES.—

''(A) IN GENERAL.—From the total amount reserved under subsection (a) for a fiscal year for distribution through the basic allotment pool, the Secretary shall first set aside 0.25 percent for distribution under paragraph (2) and shall allot from the amount remaining to each eligible State not described in such paragraph the State's allotment percentage for such fiscal year.

''(B) STATE'S ALLOTMENT PERCENTAGE.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the allotment percentage for a fiscal year for each State is the percentage equal to the ratio of the number of low-income children in the base period in the State to the total number of low-income children in the base period in all States not described in paragraph (2).

''(ii) NUMBER OF LOW-INCOME CHILDREN IN THE BASE PERIOD.—In clause (i), the number of low-income children in the base period for a fiscal year in a State is equal to the average of the number of low-income children in the State for the period beginning on October 1, 1992, and ending on September 30, 1995, as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Survey of the Bureau of the Census.

''(2) OTHER STATES.—

''(A) IN GENERAL.—From the amount set aside under paragraph (1)(A) for each fiscal year, the Secretary shall make allotments for such fiscal year in accordance with the percentages specified in subparagraph (B) to Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, if such States are eligible States for such fiscal year.

''(B) PERCENTAGES SPECIFIED.—The percentages specified in this subparagraph are in the case of—

''(i) Puerto Rico, 91.6 percent;

''(ii) Guam, 3.5 percent;

''(iii) the Virgin Islands, 2.6 percent;

''(iv) American Samoa, 1.2 percent; and

''(v) the Northern Mariana Islands, 1.1 percent.

''(3) THREE-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this subsection for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

''(4) PROCEDURE FOR DISTRIBUTION OF UNUSED FUNDS.—The Secretary shall determine an appropriate procedure for distribution of funds to eligible States that remain unused under this subsection after the expiration of the availability of funds required under paragraph (3). Such procedure shall be developed and administered in a manner that is consistent with the purpose of this title.

''(c) PAYMENTS.—

''(1) IN GENERAL.—The Secretary shall—

''(A) before October 1 of any fiscal year, pay an eligible State an amount equal to 1 percent of the amount allotted to the State under subsection (b) for conducting the outreach activities required under section 2106(a); and

''(B) make quarterly fiscal year payments to an eligible State from the amount remaining of

such allotment for such fiscal year in an amount equal to the Federal medical assistance percentage for the State (as defined under section 2102(4) and determined without regard to the amount of Federal funds received by the State under title XIX before the date of enactment of this title) of the Federal and State incurred cost of providing health insurance coverage for a low-income child in the State plus the applicable bonus amount.

''(2) APPLICABLE BONUS.—

''(A) IN GENERAL.—For purposes of paragraph (1), the applicable bonus amount is—

''(i) 5 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the base-year covered low-income child population (measured in full year equivalency) (including such children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title, but excluding any low-income child described in section 2102(3)(A) that a State must cover in order to be considered an eligible State under this title); and

''(ii) 10 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the number (as so measured) of low-income children that are in excess of such population.

''(B) SOURCE OF BONUSES.—

''(i) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—A bonus described in subparagraph (A)(i) shall be paid out of an eligible State's allotment for a fiscal year.

''(ii) FOR OTHER LOW-INCOME CHILD POPULATIONS.—A bonus described in subparagraph (A)(ii) shall be paid out of the new coverage incentive pool reserved under subsection (a)(1).

''(3) DEFINITION OF COST OF PROVIDING HEALTH INSURANCE COVERAGE.—For purposes of this subsection the cost of providing health insurance coverage for a low-income child in the State means—

''(A) in the case of an eligible State that opts to use funds provided under this title through the medicaid program, the cost of providing such child with medical assistance under the State plan under title XIX; and

''(B) in the case of an eligible State that opts to use funds provided under this title under section 2107, the cost of providing such child with health insurance coverage under such section.

''(4) LIMITATION ON TOTAL PAYMENTS.—With respect to a fiscal year, the total amount paid to an eligible State under this title (including any bonus payments) shall not exceed 85 percent of the total cost of a State program conducted under this title for such fiscal year.

''(5) MAINTENANCE OF EFFORT.—

''(A) DEEMED COMPLIANCE.—A State shall be deemed to be in compliance with this provision if—

''(i) it does not adopt income and resource standards and methodologies that are more restrictive than those applied as of June 1, 1997, for purposes of determining a child's eligibility for medical assistance under the State plan under title XIX; and

''(ii) in the case of fiscal year 1998 and each fiscal year thereafter, the State children's health expenditures defined in section 2102(11) are not less than the amount of such expenditures for fiscal year 1996.

''(B) FAILURE TO MAINTAIN MEDICAID STANDARDS AND METHODOLOGIES.—A State that fails to meet the conditions described in subparagraph (A) shall not receive—

''(i) funds under this title for any child that would be determined eligible for medical assistance under the State plan under title XIX using the income and resource standards and methodologies applied under such plan as of June 1, 1997; and

''(ii) any bonus amounts described in paragraph (2)(A)(ii).

''(C) FAILURE TO MAINTAIN SPENDING ON CHILD HEALTH PROGRAMS.—A State that fails to meet the condition described in subparagraph (A)(ii) shall not receive funding under this title.

''(6) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this subsection for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and shall reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

''SEC. 2106. USE OF FUNDS.

''(a) SET-ASIDE FOR OUTREACH ACTIVITIES.—

''(1) IN GENERAL.—From the amount allotted to a State under section 2105(b) for a fiscal year, each State shall conduct outreach activities described in paragraph (2).

''(2) OUTREACH ACTIVITIES DESCRIBED.—The outreach activities described in this paragraph include activities to—

''(A) identify and enroll children who are eligible for medical assistance under the State plan under title XIX; and

''(B) conduct public awareness campaigns to encourage employers to provide health insurance coverage for children.

''(b) STATE OPTIONS FOR REMAINDER.—A State may use the amount remaining of the allotment to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), in accordance with section 2107 or the State medicaid program (but not both). Nothing in the preceding sentence shall be construed as limiting a State's eligibility for receiving the 5 percent bonus described in section 2105(c)(2)(A)(i) for children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title.

''(c) PROHIBITION ON USE OF FUNDS.—No funds provided under this title may be used to provide health insurance coverage for—

''(1) families of State public employees; or

''(2) children who are committed to a penal institution.

''(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title (as described in section 2101), and any health insurance coverage provided with such funds may include coverage of abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

''(e) ADMINISTRATIVE EXPENDITURES.—

''(1) IN GENERAL.—Not more than the applicable percentage of the amount allotted to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), shall be used for administrative expenditures for the program funded under this title.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to a fiscal year is—

''(A) for the first 2 years of a State program funded under this title, 10 percent;

''(B) for the third year of a State program funded under this title, 7.5 percent; and

''(C) for the fourth year of a State program funded under this title and each year thereafter, 5 percent.

''(f) NONAPPLICATION OF FIVE-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.—The provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) shall not apply with respect to a State program funded under this title.

''(g) AUDITS.—The provisions of section 506(b) shall apply to funds expended under this title to the same extent as they apply to title V.

''(h) REQUIREMENT TO FOLLOW STATE PROGRAM OUTLINE.—The State shall conduct the program in accordance with the program outline approved by the Secretary under section 2104.

''SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVISION OF CHILDREN'S HEALTH INSURANCE.

''(a) STATE OPTION.—

''(1) IN GENERAL.—An eligible State that opts to use funds provided under this title under this section shall use such funds to provide FEHBP-equivalent children's health insurance coverage for low-income children who reside in the State.

''(2) PRIORITY FOR LOW-INCOME CHILDREN.—A State that uses funds provided under this title under this section shall not cover low-income children with higher family income without covering such children with a lower family income.

''(3) DETERMINATION OF ELIGIBILITY AND FORM OF ASSISTANCE.—An eligible State may establish any additional eligibility criteria for the provision of health insurance coverage for a low-income child through funds provided under this title, so long as such criteria and assistance are consistent with the purpose and provisions of this title.

''(4) AFFORDABILITY.—An eligible State may impose any family premium obligations or cost-sharing requirements otherwise permitted under this title on low-income children with family incomes that exceed 150 percent of the poverty line. In the case of a low-income child whose family income is at or below 150 percent of the poverty line, limits on beneficiary costs generally applicable under title XIX apply to coverage provided such children under this section.

''(b) NONENTITLEMENT.—Nothing in this section shall be construed as providing an entitlement for an individual or person to any health insurance coverage, assistance, or service provided through a State program funded under this title. If, with respect to a fiscal year, an eligible State determines that the funds provided under this title are not sufficient to provide health insurance coverage for all the low-income children that the State proposes to cover in the State program outline submitted under section 2104 for such fiscal year, the State may adjust the applicable eligibility criteria for such children appropriately or adjust the State program in another manner specified by the Secretary, so long as any such adjustments are consistent with the purpose of this title.

''SEC. 2107A. MENTAL HEALTH PARITY.

''(a) PROHIBITION.—In the case of a health plan that enrolls children through the use of assistance provided under a grant program conducted under this title, such plan, if the plan provides both medical and surgical benefits and mental health benefits, shall not impose treatment limitations or financial requirements on the coverage of mental health benefits if similar limitations or requirements are not imposed on medical and surgical benefits.

''(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as prohibiting a health plan from requiring preadmission screening prior to the authorization of services covered under the plan or from applying other limitations that restrict coverage for mental health services to those services that are medically necessary; and

''(2) as requiring a health plan to provide any mental health benefits.

''(c) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a health plan that offers a child described in subsection (a) 2 or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

''(d) DEFINITIONS.—In this section:

''(1) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan, but does not include mental health benefits.

''(2) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' means benefits with respect to mental health services, as defined under the terms of the plan, but does not include benefits with respect to the treatment of substance abuse and chemical dependency.

"SEC. 2108. PROGRAM INTEGRITY.

''The following provisions of the Social Security Act shall apply to eligible States under this title in the same manner as such provisions apply to a State under title XIX:

''(1) Section 1116 (relating to administrative and judicial review).

''(2) Section 1124 (relating to disclosure of ownership and related information).

''(3) Section 1126 (relating to disclosure of information about certain convicted individuals).

''(4) Section 1128 (relating to exclusion from individuals and entities from participation in State health care plans).

''(5) Section 1128A (relating to civil monetary penalties).

''(6) Section 1128B (relating to criminal penalties).

''(7) Section 1132 (relating to periods within which claims must be filed).

''(8) Section 1902(a)(4)(C) (relating to conflict of interest standards).

''(9) Section 1903(i) (relating to limitations on payment).

''(10) Section 1903(m)(5) (as in effect on the day before the date of enactment of the Balanced Budget Act of 1997).

''(11) Section 1903(w) (relating to limitations on provider taxes and donations).

''(12) Section 1905(a)(B) (relating to the exclusion of care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases from the definition of medical assistance).

''(13) Section 1921 (relating to state licensure authorities).

''(14) Sections 1902(a)(25), 1912(a)(1)(A), and 1903(o) (insofar as such sections relate to third party liability).

''(15) Sections 1948 and 1949 (as added by section 5701(a)(2) of the Balanced Budget Act of 1997).

"SEC. 2109. ANNUAL REPORTS.

''(a) ANNUAL STATE ASSESSMENT OF PROGRESS.—An eligible State shall—

''(1) assess the operation of the State program funded under this title in each fiscal year, including the progress made in providing health insurance coverage for low-income children; and

''(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

''(b) REPORT OF THE SECRETARY.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State programs funded under this title based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.''.

(b) CONFORMING AMENDMENT.—Section 1128(h) (42 U.S.C. 1320a–7(h)) is amended by—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period and inserting '', or''; and

(3) by adding at the end the following:

''(4) a program funded under title XXI.''.

SEC. 1502. APPLICABILITY.

If, on the date of enactment of this Act, the Social Security Act contains a title XXI, the amendments made to the Social Security Act by this title shall not take effect, except that amounts appropriated under such title XXI for a fiscal year shall be increased by the amounts that would have been appropriated for such fiscal year under section 2103 of the Social Security Act, as added by this title.

TITLE XVI—BUDGET ENFORCEMENT

Subtitle A—Amendments to the Congressional Budget and Impoundment Control Act of 1974

SEC. 1601. AMENDMENTS TO SECTION 201.

Section 201 of the Congressional Budget Act of 1974 is amended by redesignating subsection (g) (relating to revenue estimates) as subsection (f).

SEC. 1602. AMENDMENTS TO SECTION 202.

(a) ASSISTANCE TO BUDGET COMMITTEES.—The first sentence of section 202(a) of the Congressional Budget Act of 1974 is amended by inserting ''primary'' before ''duty''.

(b) ELIMINATION OF EXECUTED PROVISION.—Section 202 of the Congressional Budget Act of 1974 is amended by striking subsection (e) and by redesignating subsections (f), (g), and (h) as subsections (e), (f), and (g), respectively.

SEC. 1603. AMENDMENT TO SECTION 300.

The item relating to February 25 in the timetable set forth in section 300 of the Congressional Budget Act of 1974 is amended by striking ''February 25'' and inserting ''Within 6 weeks after President submits budget''.

SEC. 1604. AMENDMENTS TO SECTION 301.

(a) TERMS OF BUDGET RESOLUTIONS.—Section 301(a) of the Congressional Budget Act of 1974 is amended by striking '', and planning levels for each of the two ensuing fiscal years,'' and inserting ''and for at least each of the 4 ensuing fiscal years''.

(b) CONTENTS OF BUDGET RESOLUTIONS.—Paragraphs (1) and (4) of section 301(a) of the Congressional Budget Act of 1974 are amended by striking '', budget outlays, direct loan obligations, and primary loan guarantee commitments'' each place it appears and inserting ''and budget outlays''.

(c) ADDITIONAL MATTERS.—Section 301(b) of the Congressional Budget Act of 1974 is amended by—

(1) amending paragraph (7) to read as follows—

''(7) set forth pay-as-you-go procedures in the Senate whereby committee allocations, aggregates, and other levels can be revised for legislation if such legislation would not increase the deficit or would not increase the deficit when taken with other legislation enacted after the adoption of the resolution for the first fiscal year or the total period of fiscal years covered by the resolution;'';

(2) in paragraph 8, striking the period and inserting ''; and''; and

(3) adding the following new paragraph:

''(9) set forth direct loan obligations and primary loan commitment guarantee levels.''.

(d) VIEWS AND ESTIMATES.—The first sentence of section 301(d) of the Congressional Budget Act of 1974 is amended by inserting ''or at such time as may be requested by the Committee on the Budget,'' after ''Code,''.

(e) HEARINGS AND REPORT.—Section 301(e) of the Congressional Budget Act of 1974 is amended—

(1) by striking ''In developing'' and inserting the following:

''(1) IN GENERAL.—In developing''; and

(2) by striking the sentence beginning with ''The report accompanying '' and all that follows through the end of the subsection and inserting the following:

''(2) REQUIRED CONTENTS OF REPORT.—The report accompanying such concurrent resolution shall include—

''(A) a comparison of the appropriate levels of total new budget authority, total budget outlays, and total revenues as set forth in such concurrent resolution with those requested in the budget submitted by the President;

''(B) with respect to each major functional category, an estimate of total new budget authority and total outlays with the estimates divided between permanent authority and funds provided in appropriations Acts;

''(C) the economic assumptions which underlie each of the matters set forth in such concurrent resolution and any alternative economic assumptions and objectives that the committee considered;

''(D) projections for the period of 5 fiscal years beginning with such fiscal year, of the estimated levels of total new budget authority, total outlays and total revenues and the surplus or deficit for each fiscal year;

''(E) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the concurrent resolutions;

''(F) the estimated levels of tax expenditures (the tax expenditures budget) by major items and functional categories for the President's budget and in the concurrent resolution; and

''(G) allocations described in section 302(a).

''(3) ADDITIONAL CONTENTS OF REPORT.—The report accompanying such concurrent resolution may include—

''(A) a statement of any significant changes in the proposed levels of Federal assistance to State and local governments;

''(B) an allocation of the level of Federal revenues recommended in the concurrent resolution among the major sources of such revenues;

''(C) information, data, and comparisons on the share of total Federal budget outlays and of gross domestic product devoted to investment in the budget submitted by the President and in the concurrent resolution; and

''(D) other matters, relating to the budget and fiscal policy, the committee deems appropriate.''.

(f) SOCIAL SECURITY CORRECTIONS.—Section 301(i) of the Congressional Budget Act of 1974 is amended by—

(1) inserting ''SOCIAL SECURITY POINT OF ORDER.—'' after ''(i)''; and

(2) striking ''as reported to the Senate'' and inserting ''(or amendment, motion, or conference report on such a resolution)''.

(g) REPEAL OF BUDGET RESOLUTION PROVISION.—Section 22 of House Concurrent Resolution 218 (103d Congress) is repealed.

SEC. 1605. AMENDMENTS TO SECTION 302.

(a) ALLOCATIONS AND SUBALLOCATIONS.—Subsections (a) and (b) of section 302 of the Congressional Budget Act of 1974 are amended to read as follows:

''(a) COMMITTEE SPENDING ALLOCATIONS.—

''(1) HOUSE OF REPRESENTATIVES.—

''(A) ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution and a total for all such years) of—

''(i) total new budget authority;

''(ii) total entitlement authority; and

''(iii) total outlays;

among each committee of the House of Representatives that has jurisdiction over legislation providing or creating such amounts.

''(B) NO DOUBLE COUNTING.—Any item allocated to one committee of the House of Representatives may not be allocated to another such committee.

''(C) FURTHER DIVISION OF AMOUNTS.—The amounts allocated to each committee for each fiscal year, other than the Committee on Appropriations, shall be further divided between amounts provided or required by law on the date of filing of that conference report and amounts not so provided or required. The amounts allocated to the Committee on Appropriations for each fiscal year shall be further divided between discretionary and mandatory amounts or programs, as appropriate.

''(2) SENATE ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include an allocation, consistent with the resolution recommended in the conference report, of the appropriate levels of—

''(A) total new budget authority; and

''(B) total outlays;

among each committee of the Senate that has jurisdiction over legislation providing or creating such amounts.

''(3) AMOUNTS NOT ALLOCATED.—

''(A) IN THE HOUSE.—In the House of Representatives, if a committee receives no allocation of new budget authority, entitlement authority, or outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, entitlement authority, or outlays.

''(B) IN THE SENATE.—In the Senate, if a committee receives no allocation of new budget authority, outlays, or social security outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, outlays, or social security outlays.

''(4) SCOPE OF ALLOCATIONS IN THE SENATE.—In the Senate, the allocations made pursuant to paragraph (2) shall be made for all committees for the first fiscal year covered by the resolution and for all committees other than the Committee on Appropriations for the period of fiscal years covered by such resolution.

''(b) SUBALLOCATIONS BY APPROPRIATION COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under subsection (a)(1)(A) or (a)(2) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.''.

(b) POINT OF ORDER.—Section 302(c) of the Congressional Budget Act of 1974 is amended to read as follows:

''(c) POINT OF ORDER.—After the Committee on Appropriations has received an allocation pursuant to subsection (a) for a fiscal year, it shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority for that fiscal year within the jurisdiction of that committee, until such committee makes the suballocations required by subsection (b).''.

(c) ENFORCEMENT OF POINT OF ORDER.—Section 302(f)(2) of the Congressional Budget Act of 1974 is amended to read as follows:

''(2) ENFORCEMENT OF COMMITTEE ALLOCATIONS AND SUBALLOCATIONS.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause—

''(A) in the case of any committee except the Committee on Appropriations, the appropriate allocation of new budget authority or outlays under subsection (a) to be exceeded; or

''(B) in the case of the Committee on Appropriations, the appropriate suballocation of new budget authority or outlays under subsection (b) to be exceeded.''.

(d) SEPARATE ALLOCATIONS.—Section 302(g) is amended to read as follows:

''(g) SEPARATE ALLOCATIONS.—The Committees on Appropriations and the Budget shall make separate allocations under subsections (a) and (b) consistent with the categories in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985.''.

SEC. 1606. AMENDMENTS TO SECTION 303.

(a) IN GENERAL.—Section 303 of the Congressional Budget Act of 1974 is amended—

(1) by striking ''NEW CREDIT AUTHORITY,'' in the center heading;

(2) by striking paragraph (4) of subsection (a) and be redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively;

(3) in subsection (b)(1)(A), by inserting ''advanced, discretionary'' before ''new budget authority''; and

(4) by striking subsection (c).

(b) CONFORMING AMENDMENT.—The item relating to section 303 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking ''new credit authority,''.

SEC. 1607. AMENDMENT TO SECTION 305.

Section 305(a)(1) of the Congressional Budget Act of 1974 is amended by inserting ''when the House is not in session'' after ''holidays'' each place it appears.

SEC. 1608. AMENDMENT TO SECTION 308.

(a) ELIMINATION OF REFERENCES TO CREDIT AUTHORITY.—Section 308 of the Congressional Budget Act of 1974 is amended—

(1) by striking the center heading and inserting the following:

''REPORTS ON SPENDING AND REVENUE LEGISLATION'';

(2) in paragraphs (1) and (2) of subsection (a), by striking ''or new credit authority,'' each place it appears and insert ''and'' before ''new spending'' each place it appears;

(3) in subsection (b)(1), by striking ''or new credit authority,'' and insert ''and'' before ''new spending''; and

(4) in subsection (c), by inserting ''and'' after the semicolon at the end of paragraph (3), strike ''; and'' at the end of paragraph (4) and insert a period; and strike paragraph (5).

(b) CONFORMING AMENDMENT.—The item relating to section 308 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking ''or new credit authority'' and by inserting ''and'' after the first comma.

SEC. 1609. AMENDMENTS TO SECTION 311.

Section 311 of the Congressional Budget Act of 1974 is amended to read as follows:

''NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND REVENUE LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS

''SEC. 311. (a) ENFORCEMENT OF BUDGET AGGREGATES.—

''(1) IN THE HOUSE OF REPRESENTATIVES.—Except as provided by subsection (c), after the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority for such fiscal year, providing new entitlement authority effective during such fiscal year, or reducing revenues for such fiscal year, if—

''(A) the enactment of such bill or resolution as reported;

''(B) the adoption and enactment of such amendment; or

''(C) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the appropriate level of total new budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of total revenues set forth in such concurrent resolution except in the case that a declaration of war by the Congress is in effect.

''(2) IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that—

''(A) would cause the appropriate level of total new budget authority or total outlays set forth for the first fiscal year in such resolution to be exceeded; or

''(B) would cause revenues to be less than the appropriate level of total revenues set forth for the first fiscal year covered by such resolution or for the period including the first fiscal year plus the following 4 fiscal years in such resolution.

''(3) ENFORCEMENT OF SOCIAL SECURITY LEVELS IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that would cause a decrease in social security surpluses or an increase in social security deficits derived from the levels of social security revenues and social security outlays set forth for the first fiscal year covered by the resolution and for the period including the first fiscal year plus the following 4 fiscal years in such resolution.

''(b) SOCIAL SECURITY LEVELS.—

''(1) IN GENERAL.—For the purposes of subsection (a)(3), social security surpluses equal the excess of social security revenues over social security outlays in a fiscal year or years with such an excess and social security deficits equal the excess of social security outlays over social security revenues in a fiscal year or years with such an excess.

''(2) TAX TREATMENT.—For the purposes of this section, no provision of any legislation involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues or outlays unless such provision changes the income tax treatment of social security benefits.

''(c) EXCEPTION IN THE HOUSE OF REPRESENTATIVES.—Subsection (a)(1) shall not apply in the House of Representatives to any bill, resolution, or amendment which provides new budget authority or new entitlement authority effective during such fiscal year, or to any conference report on any such bill or resolution, if—

''(1) the enactment of such bill or resolution as reported;

''(2) the adoption and enactment of such amendment; or

''(3) the enactment of such bill or resolution in the form recommended in such conference report;

would not cause the appropriate allocation of new discretionary budget authority or new entitlement authority made pursuant to section 302(a) for such fiscal year, for the committee within whose jurisdiction such bill, resolution, or amendment falls, to be exceeded.''.

SEC. 1610. AMENDMENT TO SECTION 312.

(a) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 is amended to read as follows:

''POINTS OF ORDER

''SEC. 312. (a) DETERMINATIONS.—For purposes of this title and title IV, the levels of new budget authority, budget outlays, spending authority as described in section 401(c)(2), direct spending, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

''(b) DISCRETIONARY SPENDING POINT OF ORDER IN THE SENATE.—

''(1) Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any concurrent resolution on the budget (or amendment, motion, or conference report on such a resolution) that would exceed any of the discretionary spending limits in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985.

''(2) This subsection shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

''(c) MAXIMUM DEFICIT AMOUNT POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year under section 301, or to consider any amendment to that concurrent resolution, or to consider a conference report on that concurrent resolution—

''(1) if the level of total budget outlays for the first fiscal year that is set forth in that concurrent resolution or conference report exceeds the recommended level of Federal revenues set forth for that year by an amount that is greater than the maximum deficit amount, if any, specified in the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year; or

''(2) if the adoption of such amendment would result in a level of total budget outlays for that fiscal year which exceeds the recommended level of Federal revenues for that fiscal year, by an amount that is greater than the maximum deficit amount, if any, specified in the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year.

''(d) TIMING OF POINTS OF ORDER IN THE SENATE.—A point of order under this Act may not

be raised against a bill, resolution, amendment, motion, or conference report while an amendment or motion, the adoption of which would remedy the violation of this Act, is pending before the Senate.

''(e) POINTS OF ORDER IN THE SENATE AGAINST AMENDMENTS BETWEEN THE HOUSES.—Each provision of this Act that establishes a point of order against an amendment also establishes a point of order in the Senate against an amendment between the Houses. If a point of order under this Act is raised in the Senate against an amendment between the Houses, and the point of order is sustained, the effect shall be the same as if the Senate had disagreed to the amendment.

''(f) EFFECT OF A POINT OF ORDER ON A BILL IN THE SENATE.—In the Senate, if the Chair sustains a point of order under this Act against a bill, the Chair shall then send the bill to the committee of appropriate jurisdiction for further consideration.''.

(b) CONFORMING AMENDMENTS.—Sections 302(g), 311(c), and 313(e) of the Congressional Budget Act of 1974 are repealed.

SEC. 1611. ADJUSTMENTS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new sections:

''ADJUSTMENTS

''SEC. 314. (a) ADJUSTMENTS.—When—

''(1)(A) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, 2000, 2001, or 2002 that specifies an amount for emergencies pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 or for continuing disability reviews pursuant to section 251(b)(2)(C) of that Act;

''(B) any other committee reports emergency legislation described in section 252(e) of that Act;

''(C) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, 2000, 2001, or 2002 that includes an appropriation with respect to clause (i) or (ii), the adjustment shall be the amount of budget authority in the measure that is the dollar equivalent, in terms of Special Drawing Rights, of—

''(i) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

''(ii) an increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreements Act, as amended from time to time (New Arrangements to Borrow); or

''(D) the Committee on Appropriations reports an appropriation measure for fiscal year 1998, 1999, or 2000 that includes an appropriation for arrearages for international organizations, international peacekeeping, and multilateral development banks during that fiscal year, and the sum of the appropriations for the period of fiscal years 1998 through 2000 does not exceed $1,884,000,000 in budget authority; or

''(2) a conference committee submits a conference report thereon;

the chairman of the Committee on the Budget of the Senate or House of Representatives (whichever is appropriate) shall make the adjustments referred to in subsection (c) to reflect the additional new budget authority for such matter provided in that measure or conference report and the additional outlays flowing from such amounts for such matter.

''(b) APPLICATION OF ADJUSTMENTS.—The adjustments and revisions to allocations, aggregates, and limits made by the Chairman of the Committee on the Budget pursuant to subsection (a) for legislation shall only apply while such legislation is under consideration shall only permanently take effect upon the enactment of that legislation.

''(c) CONTENT OF ADJUSTMENTS.—The adjustments referred to in subsection (a) shall consist of adjustments, as appropriate, to—

''(1) the discretionary spending limits as set forth in the most recently adopted concurrent resolution on the budget;

''(2) the allocations made pursuant to the most recently adopted concurrent resolution on the budget pursuant to section 302(a); and

''(3) the budgetary aggregates as set forth in the most recently adopted concurrent resolution on the budget.

''(d) REPORTING REVISED SUBALLOCATIONS.—Following the adjustments made under subsection (a), the Committees on Appropriations of the Senate and the House of Representatives shall report appropriately revised suballocations pursuant to section 302(b) to carry out this subsection.

''(e) DEFINITIONS.—As used in subsection (a)(1)(A), when referring to continuing disability reviews, the terms 'continuing disability reviews', 'additional new budget authority', and 'additional outlays' shall have the same meanings as provided in section 251(b)(2)(C)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985.''.

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

(1) striking the item for section 312 and inserting the following:

''Sec. 312. Points of order.''; and

(2) adding after the item relating to section 313 the following new item:

''Sec. 314. Adjustments.''.

SEC. 1612. AMENDMENTS TO TITLE V.

(a) SECTION 502.—Section 502 of the Federal Credit Reform Act of 1990 is amended as follows:

(1) In the second sentence of paragraph (1), insert ''and refinancing arrangements that defer payment for more than 90 days, including the sale of a government asset on credit terms'' before the period.

(2) In paragraph (5)(A), insert ''or modification thereof'' before the first comma.

(3) In paragraph (5)(B)(iii), strike ''and other recoveries'' and insert '', other recoveries, and routine workouts of troubled loans or loans in imminent default when those workouts are to maximize repayments to the Government or to minimize claims on the Government''.

(4) In paragraph (5)(C), strike '', and'' at the end of clause (i), strike ''the'' in clause (ii) and strike the period and insert '', and'' at the end of that clause, and at the end add the following new clause:

''(iii) routine workouts of troubled loans or loans in imminent default when those workouts are to maximize the repayments to the Government or to minimize claims on the Government.''.

(5) In paragraph (5), amend subparagraph (D) to read as follows:

''(D) The cost of a modification is the difference in cost that results from the modification of a direct loan or loan guarantee (or direct loan obligation or loan guarantee commitment). This difference in cost is the difference between the currently estimated net present value of the remaining cash flows under the terms of the direct loan or loan guarantee contract assumed in the most recent President's budget submitted to Congress, and the currently estimated net present value of the remaining cash flows under the terms of the contract, as modified. Except for interest rates, the estimates shall be consistent with the economic and technical assumptions underlying the most recent President's budget submitted to Congress.''.

(6) Redesignate paragraph (9) as paragraph (10) and after paragraph (8) add the following new paragraph:

''(9) The term 'modification' means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the estimate based on the cash flows contained in the most recent President's budget submitted to Congress. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans. This also includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures. The term 'modification' does not include the routine administrative workouts of troubled loans or loans in imminent default. Work-outs are actions undertaken to maximize the repayments to the Government under existing direct loans or to minimize claims under existing loan guarantees. The expected effects of such work-outs shall be included in the original estimate of the cash flows. Insofar as the effects on cash flows are more or less than originally estimated, the differences in cash flows shall be included in a reestimate of the cost. The term 'modification' does not include changes in loan or guarantee terms resulting from the exercise by the borrower of an option included in the loan or guarantee contract. The expected effects of such changes in terms shall be included in the original estimate of the cash flow. Insofar as the effects on cash flow are more or less than originally estimated, the differences in cash flow shall be included in a reestimate of the cost; and''.

(b) SECTION 504.—Section 504 of the Federal Credit Reform Act of 1990 is amended as follows:

(1) Amend subsection (b)(1) to read as follows:

''(1) new budget authority to cover their costs is provided in advance in appropriation Acts;''.

(2) In subsection (b)(2), strike ''enacted'' and insert ''provided in an appropriation Act''.

(3) In subsection (d)(1), strike ''directly or indirectly alter the costs of outstanding direct loans and loan guarantees'' and insert ''modify outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments)''.

(4) In subsection (e), strike ''A direct loan obligation or loan guarantee commitment'' and insert ''An outstanding direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment)'', after ''unless'' insert ''new'', and strike ''or from other budgetary resources''.

(c) SECTION 505.—Section 505 of the Federal Credit Reform Act of 1990 is amended as follows:

(1) In subsection (c), by inserting before the period at the end of the second sentence the following: '', except that the rate of interest charged by the Secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank (hereinafter in this subsection referred to as the 'Bank') pursuant to section 406(b)) and the rate of interest paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 502(5)(E). For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 406(b), any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 502(5)(E)) that the Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5). All such amounts shall be credited to the appropriate financing account. The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 504(g). This section shall apply to transactions related to direct loan obligations or loan guarantee commitments made on or after October 1, 1991.''.

(2) In subsection (c), by striking ''supercede'' and inserting ''supersede''.

(3) By amending subsection (d) to read as follows:

''(d) AUTHORIZATION FOR LIQUIDATING ACCOUNTS.—(1) Amounts in liquidating accounts shall be available only for payments resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991. These payments shall include—

''(A) interest payments and principal repayments to the Treasury or the Federal Financing Bank for amounts borrowed;

''(B) disbursements of loans;

''(C) default and other guarantee claim payments;

''(D) interest supplement payments;

''(E) payments for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales;

''(F) payments to financing accounts when required for modifications;

''(G) administrative expenses, if—

''(i) amounts credited to the liquidating account would have been available for administrative expenses under a provision of law in effect prior to October 1, 1991; and

''(ii) no direct loan obligation or loan guarantee commitment has been made, or any modification of a direct loan or loan guarantee has been made, since September 30, 1991; and

''(H) such other payments as are necessary for the liquidation of such direct loan obligations and loan guarantee commitments.

''(2) Amounts credited to liquidating accounts in any year shall be available only for payments required in that year. Any unobligated balances in liquidating accounts at the end of a fiscal year shall be transferred to miscellaneous receipts as soon as practicable after the end of the fiscal year.

''(3) If funds in liquidating accounts are insufficient to satisfy obligations and commitments of said accounts, there is hereby provided permanent, indefinite authority to make any payments required to be made on such obligations and commitments.''.

SEC. 1613. REPEAL OF TITLE VI.

(a) REPEALER.—Title VI of the Congressional Budget Act of 1974 is repealed.

(b) CONFORMING AMENDMENTS.—Title VI of the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is repealed.

SEC. 1614. AMENDMENTS TO SECTION 904.

(a) WAIVERS.—Section 904(c) of the Congressional Budget Act of 1974 is amended to read as follows:

''(c) WAIVERS.—

''(1) Sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

''(2) Sections 301(i), 302(c), 302(f), 310(g), 311(a), 312(b), and 312(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(I), 258B(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.''.

(b) APPEALS.—Section 904(d) of the Congressional Budget Act of 1974 is amended to read as follows:

''(d) APPEALS.—

''(1) Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV or section 1017 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, concurrent resolution, reconciliation bill, or rescission bill, as the case may be.

''(2) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act.

''(3) An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 301(i), 302(c), 302(f), 310(g), 311(a), 312(b), and 312(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(I), 258B(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985.''.

(c) EXPIRATION OF SUPERMAJORITY VOTING REQUIREMENTS.—Section 904 of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''(e) EXPIRATION OF CERTAIN SUPERMAJORITY VOTING REQUIREMENTS.—Subsections (c)(2) and (d)(3) shall expire on September 30, 2002.''.

SEC. 1615. REPEAL OF SECTIONS 905 AND 906.

(a) REPEALER.—Sections 905 and 906 of the Congressional Budget and Impoundment Control Act of 1974 are repealed.

(b) CONFORMING AMENDMENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the items relating to sections 905 and 906.

SEC. 1616. AMENDMENTS TO SECTIONS 1022 AND 1024.

(a) SECTION 1022.—Section 1022(b)(1)(F) of Congressional Budget and Impoundment Control Act of 1974 is amended by striking ''section 601'' and inserting ''section 251(c) the Balanced Budget and Emergency Deficit Control Act of 1985''.

(b) SECTION 1024.—Section 1024(a)(1)(B) of Congressional Budget and Impoundment Control Act of 1974 is amended by striking ''section 601(a)(2)'' and inserting ''section 251(c) the Balanced Budget and Emergency Deficit Control Act of 1985''.

SEC. 1617. AMENDMENT TO SECTION 1026.

Section 1026(7)(A)(iv) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking ''and'' the second place it appears and inserting ''or''.

Subtitle B—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985

SEC. 1651. PURPOSE.

This subtitle extends discretionary spending limits and pay-as-you-go requirements.

SEC. 1652. GENERAL STATEMENT AND DEFINITIONS.

(a) GENERAL STATEMENT.—Section 250(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the first two sentences and inserting the following: ''This part provides for the enforcement of a balanced budget by fiscal year 2002 as called for in House Concurrent Resolution 84 (105th Congress, 1st session).''.

(b) DEFINITIONS.—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking paragraph (4) and inserting the following:

''(4) The term 'category' means defense, nondefense, and violent crime reduction discretionary appropriations as specified in the joint explanatory statement accompanying a conference report on the Balanced Budget Act of 1997. New accounts or activities shall be categorized only after consultation with the committees on Appropriations and the Budget of the House of Representatives and the Senate and such consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to new accounts or activities.'';

(2) by striking paragraph (6) and inserting the following:

''(6) The term 'budgetary resources' means new budget authority, unobligated balances, direct spending authority, and obligation limitations.'';

(3) in paragraph (9), by striking ''submission of the fiscal year 1992 budget that are not included with a budget submission'' and inserting ''that budget submission that are not included with that budget submission'';

(4) in paragraph (14), by inserting ''first 4'' before ''fiscal years'' and by striking ''1995'' and inserting ''2006''; and

(5) by striking paragraphs (17) and (20) and by redesignating paragraphs (18), (19), and (21) as paragraphs (17), (18), and (19), respectively.

SEC. 1653. ENFORCING DISCRETIONARY SPENDING LIMITS.

(a) EXTENSION THROUGH FISCAL YEAR 2002.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking ''1991–1998'' and inserting ''1997–2002'';

(2) in subsection (a)(7), by inserting ''(excluding Saturdays, Sundays, and legal holidays)'' after ''days'';

(3) in the first sentence of subsection (b)(1), by striking ''1992, 1993, 1994, 1995, 1996, 1997 or 1998'' and inserting ''1997 or any fiscal year thereafter through 2002'' and by striking ''through 1998'' and inserting ''through 2002'';

(4) in subsection (b)(1), by striking ''the following:'' and all that follows through ''in concepts and definitions'' the first place it appears and inserting ''the following: the adjustments'' and by striking subparagraphs (B) and (C);

(5) in subsection (b)(1), as amended, by striking the last sentence and inserting ''Changes in concepts and definitions may only be made after consultation with the committees on Appropriations and the Budget of the House of Representatives and the Senate and such consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to such changes.'';

(6) in subsection (b)(2), by striking ''1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998'' and inserting ''1997 or any fiscal year thereafter through 2002'', by striking ''through 1998'' and inserting ''through 2002'', and by striking subparagraphs (A), (B), (C), (E), and (G), and by redesignating subparagraphs (D), (F), and (H) as subparagraphs (A), (B), and (C), respectively;

(7) in subsection (b)(2)(A), as redesignated, by striking ''(i)'', by striking clause (ii), and by inserting ''fiscal'' before ''years'';

(8) in subsection (b)(2)(B), as redesignated, by striking everything after ''the adjustment in outlays'' and inserting ''for a fiscal year is the amount of the excess but not to exceed 0.5 percent of the adjusted discretionary spending limit on outlays for that fiscal year in fiscal year 1997 or any fiscal year thereafter through 2002;

(9) in subsection (b)(2)(C)(i), as redesignated—

(A) in subclause (III) by striking ''$245,000,000'' and inserting ''$290,000,000'';

(B) in subclause (IV), by striking ''$280,000,000'' and inserting ''$520,000,000'';

(C) in subclause (V), by striking ''$317,500,000'' and inserting ''$520,000,000'';

(D) in subclause (VI), by striking ''$317,500,000'' and inserting ''$520,000,000''; and

(E) in subclause (VII), by striking ''$317,000,000'' and inserting ''$520,000,000''; and

(10) by adding at the end of subsection (b)(2) the following:

''(D) ALLOWANCE FOR IMF.—If an appropriations bill or joint resolution is enacted for fiscal year 1998, 1999, 2000, 2001, or 2002 that includes an appropriation with respect to clause (i) or (ii), the adjustment shall be the amount of budget authority in the measure that is the dollar equivalent, in terms of Special Drawing Rights, of—

''(i) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

''(ii) any increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreements Act, as amended from time to time (New Arrangements to Borrow).

''(E) ALLOWANCE FOR INTERNATIONAL ARREARAGES.—

''(i) ADJUSTMENTS.—If an appropriations bill or joint resolution is enacted for fiscal year 1998, 1999 or 2000 that includes an appropriation for arrearages for international organizations, international peacekeeping, and multilateral development banks for that fiscal year, the adjustment shall be the amount of budget authority in such measure and the outlays flowing in all fiscal years from such budget authority.

''(ii) LIMITATIONS.—The total amount of adjustments made pursuant to this subparagraph shall not exceed $1,884,000,000 in budget authority.

''(F) ALLOWANCES FOR TRANSPORTATION.—

''(i) IN GENERAL.—If during the 105th Congress, revenue increases or direct spending reductions creditable under section 252 are enacted for transportation reserve funds as provided in sections 207, 207A, 208, or 209 of House Concurrent Resolution 84 (105th Congress), OMB shall determine the amount of the budget authority adjustment for the applicable program for each fiscal year through 2002.

''(ii) ADJUSTMENTS.—If for fiscal years 1998 through 2002, discretionary appropriations are enacted for a fiscal year that designates funding for the applicable program, the adjustment is the amount of the discretionary budget authority appropriated for such program in such fiscal year and the outlays in all years flowing from such discretionary budget authority, but not to exceed the amount available for such program pursuant to this subparagraph.

''(iii) LIMITATIONS.—(I) Revenue increases and direct spending reductions credited under this subparagraph shall be so designated in statute and shall not be credited under section 252.

''(II) The amount of the budget authority adjustment determined for a fiscal year under clause (ii) shall not exceed the amount of the revenue increase or direct spending reduction credited for a fiscal year under clause (i) and shall meet the terms and conditions of sections 207, 207A, 208, or 209 of House Concurrent Resolution 84 (105th Congress), as applicable.

(b) SHIFTING OF DISCRETIONARY SPENDING LIMITS INTO GRAMM-RUDMAN.—

(1) IN GENERAL.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

''(c) DISCRETIONARY SPENDING LIMIT.—As used in this part, the term 'discretionary spending limit' means—

''(1) with respect to fiscal year 1997, for the discretionary category, the current adjusted amount of new budget authority and outlays;

''(2) with respect to fiscal year 1998—

''(A) for the defense category: $269,000,000,000 in new budget authority and $266,823,000,000 in outlays;

''(B) for the nondefense category: $252,357,000,000 in new budget authority and $282,853,000,000 in outlays; and

''(C) for the violent crime reduction category: $5,500,000,000 in new budget authority and $3,592,000,000 in outlays;

''(3) with respect to fiscal year 1999—

''(A) for the defense category: $271,500,000,000 in new budget authority and $266,518,000,000 in outlays;

''(B) for the nondefense category: $255,699,000,000 in new budget authority and $287,850,000,000 in outlays; and

''(C) for the violent crime reduction category: $5,800,000,000 in new budget authority and $4,953,000,000 in outlays;

''(4) with respect to fiscal year 2000—

''(A) for the discretionary category: $532,693,000,000 in new budget authority and $558,711,000,000 in outlays; and

''(B) for the violent crime reduction category: $4,500,000,000 in new budget authority and $5,554,000,000 in outlays;

''(5) with respect to fiscal year 2001—

''(A) for the discretionary category: $537,677,000,000 in new budget authority and $558,460,000,000 in outlays; and

''(B) for the violent crime reduction category: $4,355,000,000 in new budget authority and $5,936,000,000 in outlays;

''(6) with respect to fiscal year 2002—

''(A) for the discretionary category: $546,619,000,000 in new budget authority and $556,314,000,000 in outlays; and

''(B) for the violent crime reduction category: $4,455,000,000 in new budget authority and $4,485,000,000 in outlays;

as adjusted in strict conformance with subsection (b).''.

(2) TRANSFERS INTO THE FUND.—On the first day of the following fiscal years, the following amounts shall be transferred from the general fund to the Violent Crime Reduction Trust Fund—

(A) for fiscal year 2001, $4,355,000,000; and

(B) for fiscal year 2002, $4,455,000,000.

(3) REPEAL OF DUPLICATIVE PROVISIONS.—Sections 201, 202, and 206 of House Concurrent Resolution 84 (105th Congress) are repealed.

SEC. 1654. VIOLENT CRIME REDUCTION TRUST FUND.

(a) SEQUESTRATION REGARDING VIOLENT CRIME REDUCTION TRUST FUND.—Section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

(b) CONFORMING AMENDMENT.—Section 310002 of Public Law 103–322 (42 U.S.C. 14212) is repealed.

SEC. 1655. ENFORCING PAY-AS-YOU-GO.

(a) EXTENSION.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

''(a) PURPOSE.—The purpose of this section is to assure that any legislation enacted prior to September 30, 2002, affecting direct spending or receipts that increases the deficit will trigger an offsetting sequestration.

''(b) SEQUESTRATION.—

''(1) TIMING.—For fiscal years 1998 through 2002, within 15 calendar days after Congress adjourns to end a session and on the same day as a sequestration (if any) under sections 251 and 253, there shall be a sequestration to offset the amount of any net deficit increase in the budget year caused by all direct spending and receipts legislation (after adjusting for any prior sequestration as provided by paragraph (2)) plus any net deficit increase in the prior fiscal year caused by all direct spending and receipts legislation not reflected in the final OMB sequestration report for that year.

''(2) CALCULATION OF DEFICIT INCREASE.—OMB shall calculate the amount of deficit increase, if any, in the budget year by adding—

''(A) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) applicable to the budget year, other than any amounts included in such estimates resulting from—

''(i) full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current law; and

''(ii) emergency provisions as designated under subsection (e);

''(B) the estimated amount of savings in direct spending programs applicable to the budget year resulting from the prior year's sequestration under this section or section 253, if any (except for any amounts sequestered as a result of any deficit increase in the fiscal year immediately preceding the prior fiscal year), as published in OMB's final sequestration report for that prior year; and

''(C) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) for the current year that are not reflected in the final OMB sequestration report for that year, other than any amounts included in such estimates resulting from—

''(i) full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current law; and

''(ii) emergency provisions as designated under subsection (e).'';

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

''(d) ESTIMATES.—

''(1) CBO ESTIMATES.—As soon as practicable after Congress completes action on any direct spending or receipts legislation, CBO shall provide an estimate to OMB of the legislation.

''(2) OMB ESTIMATES.—Not later than 5 calendar days (excluding Saturdays, Sundays, and legal holidays) after the enactment of any direct spending or receipts legislation, OMB shall transmit a report to the House of Representatives and to the Senate containing—

''(A) the CBO estimate of that legislation;

''(B) an OMB estimate of that legislation using current economic and technical assumptions; and

''(C) an explanation of any difference between the 2 estimates.

''(3) SCOPE OF ESTIMATES.—The estimates shall be prepared in conformance with scorekeeping guidelines and shall include the amount of change in outlays or receipts, as the case may be, for the current year (if applicable), the budget year, and each outyear.

''(4) CONSULTATION.—OMB and CBO, after consultation with each other and the Committees on the Budget of the House of Representatives and the Senate, shall—

''(A) determine scorekeeping guidelines; and

''(B) in conformance with such guidelines, prepare estimates under this subsection.''; and

(3) in subsection (e), by striking '', for any fiscal year from 1991 through 1998,'' and by striking ''through 1995''.

SEC. 1656. REPORTS AND ORDERS.

Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subsection (c) and redesignating subsections (d) through (k) as (c) through (j), respectively;

(2) in subsection (c)(2) (as redesignated), by striking ''1998'' and inserting ''2002'';

(3)(A) in subsection (f)(2)(A) (as redesignated), by striking ''1998'' and inserting ''2002''; and

(B) in subsection (f)(3) (as redesignated), by striking ''through 1998''; and

(4) by striking subsection (h), as redesignated, and redesignating subsection (i), as redesignated, as subsection (h).

SEC. 1657. EXEMPT PROGRAMS AND ACTIVITIES.

(a) VETERANS PROGRAMS.—Section 255(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In the item relating to Veterans Insurance and Indemnity, strike ''Indemnity'' and insert ''Indemnities''.

(2) In the item relating to Veterans' Canteen Service Revolving Fund, strike ''Veterans' ''.

(3) In the item relating to Benefits under chapter 21 of title 38, strike ''(36–0137–0–1–702)'' and insert ''(36–0120–0–1–701)''.

(4) In the item relating to Veterans' compensation, strike ''Veterans' compensation'' and insert ''Compensation''.

(5) In the item relating to Veterans' pensions, strike ''Veterans' pensions'' and insert ''Pensions''.

(6) After the last item, insert the following new items:

''Benefits under chapter 35 of title 38, United States Code, related to educational assistance for survivors and dependents of certain veterans with service-connected disabilities (36–0137–0–1–702);

''Assistance and services under chapter 31 of title 38, United States Code, relating to training

and rehabilitation for certain veterans with service-connected disabilities (36–0137–0–1–702);

''Benefits under subchapters I, II, and III of chapter 37 of title 38, United States Code, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans Guaranty and Indemnity Program Account (36–1119–0–1–704);

''Loan Guaranty Program Account (36–1025–0–1–704); and

''Direct Loan Program Account (36–1024–0–1–704).''.

(b) CERTAIN PROGRAM BASES.—Section 255(f) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''(f) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—

''(1) The President may, with respect to any military personnel account, exempt from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

''(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the date specified in section 254(d) for the budget year.''.

(c) OTHER PROGRAMS AND ACTIVITIES.—(1) Section 255(g)(1)(A) of the Balanced Budget Emergency Deficit Control Act of 1985 is amended as follows:

(A) After the first item, insert the following new item:

''Activities financed by voluntary payments to the Government for goods or services to be provided for such payments;''.

(B) Strike ''Thrift Savings Fund (26–8141–0–7–602);''.

(C) In the first item relating to the Bureau of Indian Affairs, insert ''Indian land and water claims settlements and'' after the comma.

(D) In the second item relating to the Bureau of Indian Affairs, strike ''miscellaneous'' and '', tribal trust funds'' and insert ''Miscellaneous'' before ''trust funds''.

(E) Strike ''Claims, defense (97–0102–0–1–051);''.

(F) In the item relating to Claims, judgments, and relief acts, strike ''806'' and insert ''808''.

(G) Strike ''Coinage profit fund (20–5811–0–2–803);''.

(H) Insert ''Compact of Free Association (14–0415–0–1–808);'' after the item relating to claims, judgments, and relief acts.

(I) Insert ''Conservation Reserve Program (12–2319–0–1–302);'' after the item relating to the Compensation of the President.

(J) In the item relating to the Customs Service, strike ''852'' and insert ''806''.

(K) In the item relating to the Comptroller of the Currency, insert '', Assessment funds (20–8413–0–8–373)'' before the semicolon.

(L) Strike ''Director of the Office of Thrift Supervision;''.

(M) Strike ''Eastern Indian land claims settlement fund (14–2202–0–1–806);''.

(N) After the item relating to the Exchange stabilization fund, insert the following new items:

''Farm Credit Administration, Limitation on Administrative Expenses (78–4131–0–3–351);

''Farm Credit System Financial Assistance Corporation, interest payment (20–1850–0–1–908);''.

(O) Strike ''Federal Deposit Insurance Corporation;''.

(P) In the first item relating to the Federal Deposit Insurance Corporation, insert ''(51–4064–0–3–373)'' before the semicolon.

(Q) In the second item relating to the Federal Deposit Insurance Corporation, insert ''(51–4065–0–3–373)'' before the semicolon.

(R) In the third item relating to the Federal Deposit Insurance Corporation, insert ''(51–4066–0–3–373)'' before the semicolon.

(S) In the item relating to the Federal Housing Finance Board, insert ''(95–4039–0–3–371)'' before the semicolon.

(T) In the item relating to the Federal payment to the railroad retirement account, strike ''account'' and insert ''accounts''.

(U) In the item relating to the health professions graduate student loan insurance fund, insert ''program account'' after ''fund'' and strike ''(Health Education Assistance Loan Program) (75–4305–0–3–553)'' and insert ''(75–0340–0–1–552)''.

(V) In the item relating to Higher education facilities, strike ''and insurance''.

(W) In the item relating to Internal revenue collections for Puerto Rico, strike ''852'' and insert ''806''.

(X) Amend the item relating to the Panama Canal Commission to read as follows:

''Panama Canal Commission, Panama Canal Revolving Fund (95–4061–0–3–403);''.

(Y) In the item relating to the Medical facilities guarantee and loan fund, strike ''(75–4430–0–3–551)'' and insert ''(75–9931–0–3–550)''.

(Z) In the first item relating to the National Credit Union Administration, insert ''operating fund (25–4056–0–3–373)'' before the semicolon.

(AA) In the second item relating to the National Credit Union Administration, strike ''central'' and insert ''Central'' and insert ''(25–4470–0–3–373)'' before the semicolon.

(BB) In the third item relating to the National Credit Union Administration, strike ''credit'' and insert ''Credit'' and insert ''(25–4468–0–3–373)'' before the semicolon.

(CC) After the third item relating to the National Credit Union Administration, insert the following new item:

''Office of Thrift Supervision (20–4108–0–3–373);''.

(DD) In the item relating to Payments to health care trust funds, strike ''572'' and insert ''571''.

(EE) Strike ''Compact of Free Association, economic assistance pursuant to Public Law 99–658 (14–0415–0–1–806);''.

(FF) In the item relating to Payments to social security trust funds, strike ''571'' and insert ''651''.

(GG) Strike ''Payments to state and local government fiscal assistance trust fund (20–2111–0–1–851);''.

(HH) In the item relating to Payments to the United States territories, strike ''852'' and insert ''806''.

(II) Strike ''Resolution Funding Corporation;''.

(JJ) In the item relating to the Resolution Trust Corporation, insert ''Revolving Fund (22–4055–0–3–373)'' before the semicolon.

(KK) After the item relating to the Tennessee Valley Authority funds, insert the following new items:

''Thrift Savings Fund;

''United States Enrichment Corporation (95–4054–0–3–271);

''Vaccine Injury Compensation (75–0320–0–1–551);

''Vaccine Injury Compensation Program Trust Fund (20–8175–0–7–551);''.

(2) Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(A) Strike ''The following budget'' and insert ''The following Federal retirement and disability''.

(B) In the item relating to Black lung benefits, strike ''lung benefits'' and insert ''Lung Disability Trust Fund''.

(C) In the item relating to the Court of Federal Claims Court Judges' Retirement Fund, strike ''Court of Federal''.

(D) In the item relating to Longshoremen's compensation benefits, insert ''Special workers compensation expenses,'' before ''Longshoremen's''.

(E) In the item relating to Railroad retirement tier II, insert ''Industry Pension Fund'' after ''tier II'', and strike ''retirement tier II''.

(3) Section 255(g)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(A) Strike the following items:

''Agency for International Development, Housing, and other credit guarantee programs (72–4340–0–3–151);

''Agricultural credit insurance fund (12–4140–0–1–351);''.

(B) In the item relating to Check forgery, strike ''Check'' and insert ''United States Treasury check''.

(C) Strike ''Community development grant loan guarantees (86–0162–0–1–451);''.

(D) After the item relating to the United States Treasury Check forgery insurance fund, insert the following new item:

''Credit liquidating accounts;''.

(E) Strike the following items:

''Credit union share insurance fund (25–4468–0–3–371);

''Economic development revolving fund (13–4406–0–3);

''Export-Import Bank of the United States, Limitation of program activity (83–4027–0–1–155);

''Federal deposit Insurance Corporation (51–8419–0–8–371);

''Federal Housing Administration fund (86–4070–0–3–371);

''Federal ship financing fund (69–4301–0–3–403);

''Federal ship financing fund, fishing vessels (13–4417–0–3–376);

''Government National Mortgage Association, Guarantees of mortgage-backed securities (86–4238–0–3–371);

''Health education loans (75–4307–0–3–553);

''Indian loan guarantee and insurance fund (14–4410–0–3–452);

''Railroad rehabilitation and improvement financing fund (69–4411–0–3–401);

''Rural development insurance fund (12–4155–0–3–452);

''Rural electric and telephone revolving fund (12–4230–8–3–271);

''Rural housing insurance fund (12–4141–0–3–371);

''Small Business Administration, Business loan and investment fund (73–4154–0–3–376);

''Small Business Administration, Lease guarantees revolving fund (73–4157–0–3–376);

''Small Business Administration, Pollution control equipment contract guarantee revolving fund (73–4147–0–3–376);

''Small Business Administration, Surety bond guarantees revolving fund (73–4156–0–3–376);

''Department of Veterans Affairs Loan guaranty revolving fund (36–4025–0–3–704);''.

(d) LOW-INCOME PROGRAMS.—Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In the item relating to Aid to families with dependent children, strike ''0412'' and insert ''1501''.

(2) Amend the item relating to Child nutrition to read as follows:

''State child nutrition programs (with the exception of special milk programs) (12–3539–0–1–605);''.

(3) After the item relating to State child nutrition programs, insert the following new item:

''Commodity supplemental food program (12–3512–0–1–605);''.

(4) Amend the item relating to the Women, infants, and children program to read as follows:

''Special supplemental nutrition program for women, infants, and children (WIC) (12–3510–0–1–605).''.

(e) IDENTIFICATION OF PROGRAMS.—Section 255(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''(i) IDENTIFICATION OF PROGRAMS.—For purposes of subsections (b), (g), and (h), each account is identified by the designated budget account identification code number set forth in the Budget of the United States Government 1998–Appendix, and an activity within an account is designated by the name of the activity and the identification code number of the account.''.

(f) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—Section 255(h) of the Balanced Budget

and Emergency Deficit Control Act of 1985 is repealed.

SEC. 1658. GENERAL AND SPECIAL SEQUESTRATION RULES.

(a) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The section heading of section 256 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking ''**EXCEPTIONS, LIMITATIONS, AND SPECIAL RULES**'' and inserting ''**GENERAL AND SPECIAL SEQUESTRATION RULES**''.

(2) TABLE OF CONTENTS.—The item relating to section 256 in the table contents set forth in section 250(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''Sec. 256. General and special sequestration rules.''.

(b) AUTOMATIC SPENDING INCREASES.—Section 256(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(c) GUARANTEED STUDENT LOAN PROGRAM.—Section 256(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''(b) STUDENT LOANS.—For all student loans under part B or D of title IV of the Higher Education Act of 1965 made during the period when a sequestration order under section 254 is in effect, origination fees under sections 438(c)(2) and 456(c) of that Act shall be increased by a uniform percentage sufficient to produce the dollar savings in student loan programs (as a result of that sequestration order) required by section 252 or 253, as applicable.''.

(d) HEALTH CENTERS.—Section 256(e)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the dash and all that follows thereafter and inserting ''2 percent.''.

(e) TREATMENT OF FEDERAL ADMINISTRATIVE EXPENSES.—Section 256(h)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraphs (D) and (H), by redesignating subparagraphs (E), (F), (G), and (I), as subparagraphs (D), (E), (F), and (G), respectively, and by adding at the end the following new subparagraph:

''(H) Farm Credit Administration.''.

(f) COMMODITY CREDIT CORPORATION.—Section 256(j)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''(5) DAIRY PROGRAM.—Notwithstanding other provisions of this subsection, as the sole means of achieving any reduction in outlays under the milk price support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundred weight of milk marketed) shall occur under section 201(d)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued under section 254, and shall not exceed the aggregate amount of the reduction in outlays under the milk price support program that otherwise would have been achieved by reducing payments for the purchase of milk or the products of milk under this subsection during the applicable fiscal year.''.

(g) EFFECTS OF SEQUESTRATION.—Section 256(k) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) in paragraph (1), strike ''other than a trust or special fund account'' and insert '', except as provided in paragraph (5)'' before the period; and

(2) strike paragraph (4), redesignate paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and amend paragraph (5) (as redesignated) to read as follows:

''(5) Budgetary resources sequestered in revolving, trust, and special fund accounts, and offsetting collections sequestered in appropriation accounts shall not be available for obligation during the fiscal year in which the sequestration occurs, but shall be available in subsequent years to the extent otherwise provided in law.''.

SEC. 1659. THE BASELINE.

(a) IN GENERAL.—Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking subsection (b)(2)(A) and inserting the following:

''(A)(i) No program with estimated current year outlays greater than $50,000,000 shall be assumed to expire in the budget year or the outyears except as provided in clause (ii).

''(ii) If legislation eliminates direct spending authority for a program for the budget year or any outyear and such legislation provides that the Federal Government has no legal authority or obligation to incur financial obligations for such program, clause (i) shall not apply and CBO and OMB, as appropriate, may score such legislation with the budget authority and outlay effects resulting from terminating such program as provided in such legislation and the baseline may assume the expiration of that program as provided in such legislation.'';

(2) by adding the end of subsection (b)(2) the following new subparagraph:

''(D) If any law expires before the budget year or any outyear, then any program with estimated current year outlays greater than $50,000,000 which operates under that law shall be assumed to continue to operate under that law as in effect immediately before its expiration.'';

(3) in subsection (c)(5), in the second sentence, by striking ''national product fixed-weight price index'' and inserting ''domestic product chain-type price index''; and

(4) by striking subsection (e) and inserting the following:

''(e) ASSET SALES.—Amounts realized from the sale of an asset shall not be counted for purposes of sections 251, 252, and 253 against legislation if that sale would result in a financial cost to the Federal Government.''.

(b) BUDGETARY TREATMENT OF CERTAIN TRUST FUND OPERATIONS.—Section 710 of the Social Security Act (42 U.S.C. 911) is amended to read as follows:

''BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

''SEC. 710. (a) The receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund and the taxes imposed under sections 1401 and 3101 of the Internal Revenue Code of 1986 shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

''(b) No provision of law enacted after the date of enactment of the Balanced Budget and Emergency Deficit Control Act of 1985 (other than a provision of an appropriation Act that appropriated funds authorized under the Social Security Act as in effect on the date of the enactment of the Balanced Budget and Emergency Deficit control Act of 1985) may provide for payments from the general fund of the Treasury to any Trust Fund specified in paragraph (1) or for payments from any such Trust Fund to the general fund of the Treasury.''.

SEC. 1660. TECHNICAL CORRECTION.

Section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985, entitled ''Modification of Presidential Order'', is repealed.

SEC. 1661. JUDICIAL REVIEW.

Section 274 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) Strike ''252'' or ''252(b)'' each place it appears and insert ''254''.

(2) In subsection (d)(1)(A), strike ''257(l) to the extent that'' and insert ''256(a) if'', strike the parenthetical phrase, and at the end insert ''or''.

(3) In subsection (d)(1)(B), strike ''new budget'' and all that follows through ''spending authority'' and insert ''budgetary resources'' and strike ''or'' after the comma.

(4) Strike subsection (d)(1)(C).

(5) Strike subsection (f) and redesignate subsections (g) and (h) as subsections (f) and (g), respectively.

(6) In subsection (g) (as redesignated), strike ''base levels of total revenues and total budget outlays, as'' and insert ''figures'', and ''251(a)(2)(B) or (c)(2),'' and insert ''254''.

SEC. 1662. EFFECTIVE DATE.

(a) EXPIRATION.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking ''Part C of this title, section'' and inserting ''Sections 251, 252, 253, 258B, and'';

(2) by striking ''1995'' and inserting ''2002''; and

(3) by adding at the end the following new sentence: ''The remaining sections of part C of this title shall expire September 30, 2006.''.

(b) EXPIRATION.—Section 14002(c)(3) of the Omnibus Budget Reconciliation Act of 1993 is repealed.

SEC. 1663. REDUCTION OF PREEXISTING BALANCES AND EXCLUSION OF EFFECTS OF THIS ACT FROM PAYGO SCORECARD.

Upon the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) reduce any balances of direct spending and receipts legislation for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to zero; and

(2) not make any estimates of changes in direct spending outlays and receipts under subsection (d) of such section 252 for any fiscal year resulting from the enactment of this Act or any Act enacted pursuant to section 104 or 105 of House Concurrent Resolution 84 (105th Congress).